1453.

SUPREME COURT OF THE UNITED STATES.

No. 141.

THE CHESAPEAKE AND DELAWARE CANAL COMPANY, DEFENDANTS,

vs.

JOHN A. PERRINE, COMPLAINANT.

ON A CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT U. S. FOR DELAWARE.

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J. & G. S. Gideon, Printers.

In the circuit court of the United States, in and for the Delaware district, on the equity side thereof.

May term, 1847.

JOHN A. PERRINE, a citizen of the State of New Jersey, vs. THE CHESAPEAKE & DELAWARE CANAL COMPANY, a corporation of the State of Delaware.	Whiteley. 1. J. A. Bayard.

In equity. Bill filed April 12th, 1847, in the following words, to wit:

To the honorable the judges of the circuit court of the United States within and for the district of Delaware, in the fourth circuit, sitting in equity.

The bill of complaint of John A. Perrine, a citizen and resident of the State of New Jersey, against the Chesapeake and Delaware Canal Company, a corporation created by the State of Delaware, humbly complaining, shows unto your honors your orator, John A. Perrine, that he is a citizen and resident of the State of New Jersey; that the said the Chesapeake and Delaware Canal Company is a corporation created for the purpose of cutting and making a canal between the Chesapeake bay and the bay or river Delaware, or waters thereof, by an act of the State of Delaware, passed on the 29th of January, 1801, and also by an act of the State of Maryland, passed on the 7th of December, 1799, and also by an act of the State of Pennsylvania, passed on the 19th of February, 1801, and performing their functions, and possessing their property, franchises, authorities, rights, and privileges under said acts, and divers other acts supplementary to the said acts, which have been passed from time to time by the said States of Delaware, Maryland, and Pennsylvania, copies of which acts are hereto annexed, (marked "a collection of laws relative to the Chesapeake and Delaware canal,") and made part of this bill of complaint; that the said corporation is located in, and performs its functions under the authority of, the said State of Delaware, and that divers of its stockholders, proprietors, and corporators, are citizens and residents of the said State of Delaware; that it was not created by, and has not received any charter from, or performed any functions under the authority or within the boundaries of the State of New Jersey; and that none of the stockholders, proprietors, or corporators of the said company are, as your orator believes, and so avers, citizens or residents of the said State of New Jersey, or of any other State than the said States of Delaware, Maryland, and Pennsylvania.

And your orator further shows, that by the provisions of the said acts, and especially by the provisions of the 8th and 10th sections of the act of the State of Delaware, passed on the 29th of January, 1801, and of

the 9th and 11th sections of the act of the State of Maryland, passed on the 7th of December, 1799, as will be seen by reference thereto, it was enacted that the said Chesapeake and Delaware canal, and the works to be erected thereon in virtue of the said acts, when completed should forever thereafter be esteemed and taken to be navigable as a public highway; that, by the said acts, the said corporation was authorized to demand and receive certain tolls therein specified, for goods, commodities, and produce, which should be transported through said canal, and on boats and vessels which should not have commodities on board; that no toll was imposed on, nor was the said corporation authorized to demand or receive from passengers being on any boat or vessel on said canal, or proceeding through the same, any toll or charge whatsoever; and that the said canal is now completed and in operation, under and by authority of the said acts, and is the property, and under the control and exclusive management, of the said corporation.

And your orator further shows, that on the 24th day of March last, proposing to establish a canal passenger line of boats between Camden, Philadelphia, and Baltimore, to transport passengers through the said canal during the approaching spring and summer, he gave notice thereof to the said corporation in a letter, dated on the said day, and hereto annexed, (marked "Exhibit No. 1,") and made part of this bill of complaint; and having been informed that the said corporation claimed the right to prevent the transit of passengers through the said canal, should they deem it expedient so to do, and if they permitted it, still maintained the right to charge a toll for each passenger, your orator made distinct inquiry whether any such right or authority was claimed or would be insisted on, and stated that he proposed to establish the said canal passenger line, to commence running on the first of May next, and to be continued through the spring and summer.

And your orator further shows, that the said corporation, by a resolution of their board of president and directors, dated 30th of March, 1847, and hereto annexed, (marked "Exhibit No. 2,") and made part of this bill of complaint, directed their president to reply to your orator denying the right claimed by him, and claiming for the said corporation the right to exclude passengers, unless their transit should be allowed by the special permission of the said corporation, and if that should be granted, then to receive a fair rate of toll for each passenger; which reply was communicated to your orator in a letter of the said president, dated 30th of March, 1847, and hereto annexed, (marked "Exhibit No. 3,") and made part of this bill of complaint.

And your orator further shows, that, not considering the said corporation to be authorized by law, either to exclude passengers from his vessels or to charge him any other toll than the sum they are authorized by the aforesaid acts of incorporation, and acts supplementary thereto, to receive for an empty vessel, he offered to pay the same, and also to pay the regular tolls now imposed on all goods, commodities, and produce, he might have on board said vessels, but no more; and he also gave written notice to the said corporation in a letter, dated the 1st

day of April, 1847, and hereto annexed, (marked "Exhibit No. 4,") and made part of this bill of complaint, that he would commence the canal passenger line mentioned in his letter of 24th March, 1847, on the said 1st of May next.

And your orator further shows, that the said corporation, immediately after receiving the said offer and the said notice from your orator, on the 6th of April, 1847, by a resolution passed at a regular meeting of their board of president and directors, and hereto annexed, (marked "Exhibit No. 5,") and made part of this bill of complaint, instructed the superintendent at the Delaware tide lock on the Chesapeake and Delaware canal, to permit any vessel of the canal passenger line established by your orator to pass through the canal, if it should have goods, commodities, or produce on board, or if empty, on payment of the regular tolls now imposed; but if the said vessel should carry passengers or persons not engaged in the navigation or business of the vessel or cargo, to require from the master of said vessel the payment of one dollar toll for each passenger before said vessel should pass out of said lock; and if such payment should not be made, or the passengers should not be landed from said vessel, then not to permit it to pass through the canal; and the said corporation, by the said resolution, further instructed the said superintendent and the officers and agents of the corporation to be diligent in requiring any such vessel, if it should enter or pass through the canal, to adhere strictly to all the existing rules and regulations of the said corporation as to speed and conduct; and the said corporation by letters, dated on the same day, addressed by their president to your orator, and to the said superintendent, and hereto annexed, (marked "Exhibit No. 6," and "Exhibit No. 7,") and made part of this bill of complaint, gave notice to your orator and to the said superintendent of the said instructions, and that the same would be strictly enforced.

And your orator further shows, that by reason of the premises he is prevented from making large profits, and subjected to great expenses, exceeding in the whole the sum of two thousand dollars annually.

To the end, therefore, that the said corporation, the Chesapeake and Delaware Canal Company, under their corporate seal may make full, true, and perfect answer to all and singular the matters hereinbefore stated and charged, as fully as if they were distinctly interrogated thereto, and that your orator may be protected against the acts and doings of the said corporation in the premises, and that the right of your orator to transport passengers through the said canal, in his said canal passenger line, and in boats and vessels, upon payment of the tolls authorized by law upon the boats or vessels, or upon the goods, commodities, or produce on board thereof, and free from any toll or charge in respect of the passengers transported in said canal passenger line, or on board of the said boats or vessels, may be established by the decree of this honorable court, and the said corporation restrained by the said decree, from hindering or preventing the transit of passengers on the said canal, in the said canal passenger line, or in the said boats or vessels of your orator; and from imposing any toll upon the said canal passenger line, or the

said boats or vessels of your orator, in respect of the passengers on board of the same, and from hindering or preventing the free passage of said canal passenger line, and the said boats and vessels of your orator, through the said canal, having on board passengers, and persons other than those engaged in the navigation or business of the vessels or cargo, until the payment of such tolls, in respect of such passengers and persons on board; and that your orator may have such further and other relief in the premises, as the nature of the circumstances of this case may require, and to this honorable court may seem meet.

May it please your honors, the premises considered, to grant unto your orator not only the writ of injunction of the United States of America, issuing out of and under the seal of this honorable court, to be directed to the said the Chesapeake and Delaware Canal Company, its officers and agents, to restrain the said corporation and its superintendent at the Delaware tide lock, and its officers and agents, from executing and carrying into effect the resolution of the board of president and directors of said corporation, adopted on the 6th of April, 1847, as hereinbefore stated, and the instructions issued in pursuance thereof; and to restrain the said corporation, superintendent, officers, and agents from preventing the passage through the canal of the said canal passenger line, and the boats and vessels of your orator, having on board passengers and persons not engaged in the navigation or business of the said line, boats, or vessels, and their cargoes, after due payment of the legal tolls on goods, produce, and commodities on board, and on empty vessels; and to restrain the said corporation, superintendent, officers, and agents, from imposing upon, demanding, or receiving from your orator, or on the said canal passenger line, or on the boats or vessels of your orator, any toll in respect of such passengers and persons aforesaid, on board of the same; but also the writ of subpœna of the United States of America, to be directed to the said the Chesapeake and Delaware Canal Company, thereby commanding them at a certain day, and under a certain pain therein to be specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and perform and abide such order and decree therein as to your honors shall seem meet.

And your orator shall ever pray, &c.

J. A. PERRINE,
WILLIAM G. WHITELEY,
Solr. for complaint.

(*Exhibit No.* 1.)

To the president and directors of the Chesapeake and Delaware Canal Co., Philadelphia:

PRINCETON, NEW JERSEY,
24th March, 1847.

GENTLEMEN: As I propose to establish a canal passenger line of boats between Camden, Philadelphia, and Baltimore, to pass through your canal, I think proper to give you notice of my intention so to do. My

day of April, 1847, and hereto annexed, (marked "Exhibit No. 4,") and made part of this bill of complaint, that he would commence the canal passenger line mentioned in his letter of 24th March, 1847, on the said 1st of May next.

And your orator further shows, that the said corporation, immediately after receiving the said offer and the said notice from your orator, on the 6th of April, 1847, by a resolution passed at a regular meeting of their board of president and directors, and hereto annexed, (marked "Exhibit No. 5,") and made part of this bill of complaint, instructed the superintendent at the Delaware tide lock on the Chesapeake and Delaware canal, to permit any vessel of the canal passenger line established by your orator to pass through the canal, if it should have goods, commodities, or produce on board, or if empty, on payment of the regular tolls now imposed; but if the said vessel should carry passengers or persons not engaged in the navigation or business of the vessel or cargo, to require from the master of said vessel the payment of one dollar toll for each passenger before said vessel should pass out of said lock; and if such payment should not be made, or the passengers should not be landed from said vessel, then not to permit it to pass through the canal; and the said corporation, by the said resolution, further instructed the said superintendent and the officers and agents of the corporation to be diligent in requiring any such vessel, if it should enter or pass through the canal, to adhere strictly to all the existing rules and regulations of the said corporation as to speed and conduct; and the said corporation by letters, dated on the same day, addressed by their president to your orator, and to the said superintendent, and hereto annexed, (marked "Exhibit No. 6," and "Exhibit No. 7,") and made part of this bill of complaint, gave notice to your orator and to the said superintendent of the said instructions, and that the same would be strictly enforced.

And your orator further shows, that by reason of the premises he is prevented from making large profits, and subjected to great expenses, exceeding in the whole the sum of two thousand dollars annually.

To the end, therefore, that the said corporation, the Chesapeake and Delaware Canal Company, under their corporate seal may make full, true, and perfect answer to all and singular the matters hereinbefore stated and charged, as fully as if they were distinctly interrogated thereto, and that your orator may be protected against the acts and doings of the said corporation in the premises, and that the right of your orator to transport passengers through the said canal, in his said canal passenger line, and in boats and vessels, upon payment of the tolls authorized by law upon the boats or vessels, or upon the goods, commodities, or produce on board thereof, and free from any toll or charge in respect of the passengers transported in said canal passenger line, or on board of the said boats or vessels, may be established by the decree of this honorable court, and the said corporation restrained by the said decree, from hindering or preventing the transit of passengers on the said canal, in the said canal passenger line, or in the said boats or vessels of your orator; and from imposing any toll upon the said canal passenger line, or the

said boats or vessels of your orator, in respect of the passengers on board of the same, and from hindering or preventing the free passage of said canal passenger line, and the said boats and vessels of your orator, through the said canal, having on board passengers, and persons other than those engaged in the navigation or business of the vessels or cargo, until the payment of such tolls, in respect of such passengers and persons on board; and that your orator may have such further and other relief in the premises, as the nature of the circumstances of this case may require, and to this honorable court may seem meet.

May it please your honors, the premises considered, to grant unto your orator not only the writ of injunction of the United States of America, issuing out of and under the seal of this honorable court, to be directed to the said the Chesapeake and Delaware Canal Company, its officers and agents, to restrain the said corporation and its superintendent at the Delaware tide lock, and its officers and agents, from executing and carrying into effect the resolution of the board of president and directors of said corporation, adopted on the 6th of April, 1847, as hereinbefore stated, and the instructions issued in pursuance thereof; and to restrain the said corporation, superintendent, officers, and agents from preventing the passage through the canal of the said canal passenger line, and the boats and vessels of your orator, having on board passengers and persons not engaged in the navigation or business of the said line, boats, or vessels, and their cargoes, after due payment of the legal tolls on goods, produce, and commodities on board, and on empty vessels; and to restrain the said corporation, superintendent, officers, and agents, from imposing upon, demanding, or receiving from your orator, or on the said canal passenger line, or on the boats or vessels of your orator, any toll in respect of such passengers and persons aforesaid, on board of the same; but also the writ of subpœna of the United States of America, to be directed to the said the Chesapeake and Delaware Canal Company, thereby commanding them at a certain day, and under a certain pain therein to be specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and perform and abide such order and decree therein as to your honors shall seem meet.

And your orator shall ever pray, &c.

J. A. PERRINE,
WILLIAM G. WHITELEY,
Solr. for complaint.

(*Exhibit No.* 1.)

To the president and directors of the Chesapeake and Delaware Canal Co., Philadelphia:

PRINCETON, NEW JERSEY,
24th March, 1847.

GENTLEMEN: As I propose to establish a canal passenger line of boats between Camden, Philadelphia, and Baltimore, to pass through your canal, I think proper to give you notice of my intention so to do. My

plan is to commence running on the 1st day of May next, to be continued through the spring and summer. I have been informed that the company of which you constitute the board of president and directors, claim the right to prevent the transit of passengers through the said canal, if you deem it expedient so to do; and that if you permit it, you still maintain the right to charge a toll for each passenger whom you allow to pass through. Now, being of opinion that neither by your charter, nor by law, are you authorized, either to exclude passengers or to charge a toll on them, I beg to inquire whether any such right or authority is claimed or will be insisted on by you, so as to prevent future misunderstanding, and I shall be obliged by an answer at your earliest convenience.

Very respectfully, your ob't servant,

(Signed) J. A. PERRINE.

To CALEB NEWBOLD, ESQ.,
Pres't Ches. and Del. Canal Co., Philadelphia.

(*Exhibit No.* 2.)

CHESAPEAKE AND DELAWARE CANAL OFFICE,
Philadelphia, 30th March, 1847.

At a meeting of the board of president and directors of the Chesapeake and Delaware Canal Company, held this day, the president laid before the board a letter dated 24th inst., from John A. Perrine, esqr., of New Jersey, stating his intention to establish a canal passenger line between Camden, Philadelphia, and Baltimore, and making inquiry as to the transportation of passengers through the canal, and a charge of tolls therefor.

The said letter was read and considered, and it was resolved: That the president reply to Mr. Perrine, and inform him that the company claims the right to exclude passengers unless their transit is allowed by the special permission of the company, and, if that is granted, then to receive a fair rate of toll for each passenger.

Extracts from the minutes.

PETER LESLEY, *Sec.*

(*Exhibit No.* 3.)

To JOHN A. PERRINE, ESQ., *Princeton, New Jersey.*

CHESAPEAKE AND DELAWARE CANAL OFFICE,
Philadelphia, 30th March, 1847.

SIR: Your letter of the 24th inst., addressed to the president and directors of the Chesapeake and Delaware Canal Co., has been received, and was laid before the board. A resolution was passed by them, of which I enclose you a copy. The company regard the canal as a "public highway, free for the transportation of all goods, commodities, or produce whatsoever," on payment of the tolls "authorized by charter, and for boats or vessels which have not commodities on board," on payment of the sum authorized in such case by charter; but they deny

that it is a public highway for the transportation of passengers, and claim the right to exclude passengers, except by special permission of the company; and if that is granted, then to receive a fair rate of toll for each passenger. The canal was intended by the charter to be used by vessels engaged in commerce, not by passenger lines, which interfere with the trade and injure the canal. Any vessel you may send in the line you propose to establish, will be permitted to pass through, if they have goods, commodities, and produce on board; or, if empty, on payment of the regular tolls now imposed. If you carry passengers, or persons not engaged in the navigation or business of the vessel or cargo, you will be required to pay one dollar toll for each passenger, on arriving at the first lock. If you refuse to make this payment or to land your passengers, the vessel will not be permitted to pass through the canal. I am directed also to say, that if your vessels pass through the canal, they will be required to adhere strictly to all the existing rules and regulations as to speed and conduct.

Very respectfully, your ob't serv't,

(Signed) C. NEWBOLD, JR., *President*.

(*Exhibit No.* 4.)

To the president and directors of the Chesapeake and Delaware Canal Company.

PRINCETON, NEW JERSEY, *April 1st*, 1847.

GENTLEMEN: I have received the letter of your president, dated the 30th March. After due reflection, I have in reply to say, that I do not consider the Chesapeake and Delaware Canal Company as being authorized by law, either to exclude passengers from my vessels, or to charge me any other toll than the sum they are authorized by the charter to receive for an empty vessel. This I will pay, but no more, unless I have commodities on board, and then no more than the regular tolls now imposed thereon. Not deeming it necessary to prolong this correspondence, I shall only further repeat my notice, that I shall commence the canal passenger line mentioned in my letter of the 24th ult., on the 1st day of May next, and I trust no obstacle will be presented by your officers or agents at the canal.

Very respectfully, your obedient servant,

(Signed) JOHN A. PERRINE.

(*Exhibit No.* 5.)

PHILADELPHIA, CHESAPEAKE AND DELAWARE CANAL OFFICE, *April 6th*, 1847.

At a meeting of the board of directors of the Chesapeake and Delaware Canal Company held this day, the president laid before the board a copy of a letter addressed by him on the 30th March, 1847, to John A. Perrine, esqr., of Princeton, New Jersey, in compliance with the resolution of the board of the 30th March, 1847, and also the answer of Mr. Perrine thereto, dated the 1st inst.

The said letters were read and considered, and that of the president approved. It was then, on motion, resolved :

That the president instruct the superintendent at the Delaware Tide Lock, on the Chesapeake and Delaware Canal, to permit any vessel of the canal passenger line, established by John A. Perrine, esqr., to pass through the canal, if it have goods, commodities, or produce on board, or, if empty, on payment of the regular tolls now imposed; but if the said vessel carry passengers or persons not engaged in the navigation or business of the vessel, or cargo, to require from the master of said vessel the payment of one dollar toll for each passenger, before said vessel passes out of said lock; and if such payment be not made, or the passengers be not landed from said vessel, then not to permit it to pass through the canal. And further, to instruct the superintendent, and the officers and agents of the company, to be diligent in requiring any such vessel, if it shall enter or pass through the canal, to adhere strictly to all the existing rules and regulations as to speed and conduct.

Resolved, That the president transmit to Mr. Perrine a copy of the above resolution.

Extract from the minutes.

PETER V. LESLEY, *Secretary.*

(*Exhibit No.* 6.)

To JOHN A. PERRINE, ESQ., *Princeton, New Jersey.*

CHESAPEAKE AND DELAWARE CANAL OFFICE,
PHILADELPHIA, *April 6th*, 1847.

SIR: Your letter of the 1st inst., was received and laid before the board.

Pursuant to their direction, I enclose a copy of a resolution adopted in relation thereto.

It is proper for me to apprize you, that the instructions therein mentioned have been given to the superintendent at the Delaware tide lock, and they will be strictly enforced.

Very respectfully, your obedient servant,

(Signed) C. NEWBOLD, Jr., *President.*

(*Exhibit No.* 7.)

To Mr. John Ash, superintendent of the Delaware tide lock on the Chesapeake and Delaware Canal.

CHES. DEL. CANAL OFFICE, PHILA., *April* 6, 1847.

SIR: I enclose a copy of a resolution this day adopted by the board of president and directors, in relation to a canal passenger line established by John A. Perrine, esq., of New Jersey; you will be particular in enforcing the decision of the board, as contained in this resolution.

Very respectfully, yours,

(Signed) C. NEWBOLD, Jr., *President.*

A collection of laws relative to the Chesapeake and Delaware Canal.

I. Laws of Maryland.

I. Act passed 7 December, 1799. Recorded Lib. I. G. No. 3. fol. 254.

An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay. Maryland. 7 Dec. 1799.

Whereas the opening of the communication between the bay of Chesapeake and the river Delaware by means of a canal will be attended with very beneficial effects to those parts of the state of Maryland that lie on the bay of Chesapeake and on the waters that empty themselves into the said bay as also to the agricultural interest thereof in general and many persons are willing to subscribe large sums of money to effect so useful a work and it being just and proper that they their heirs and assigns should be empowered to receive reasonable tolls forever as a compensation for the money advanced by them in carrying the work into execution and the risque they incur. Preamble. General benefit of a canal induces many to subscribe, who are entitled to a compensation.

Sect. II. *Be it enacted by the General Assembly of Maryland* That it shall be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars in shares of two hundred dollars each share for the cutting said canal and perfecting the navigation thereof under the management of Tobias Rudolph and William Alexander at Elkton in Cecil county Dr. William Matthews and Samuel Davis at the head of Sassafras in Kent county Richard Tilghman and William Barroll at Chestertown in Kent county Richard Tilghman Earle and James Clayland, junior at Centreville in Queen Ann's county and James Earle, junior and Owen Kennard at Easton in Talbot county and under the management of such persons and at such places in Delaware and Pennsylvania as shall be appointed by acts of the Legislature of those states that the said books shall be opened on the first day of March eighteen hundred and shall continue open for this purpose until the first day of March eighteen hundred and one and on the first day of May thereafter there shall be a general meeting of the subscribers at the town of Wilmington in the state of Delaware of which meeting notice shall be given by the said managers or any four of them in some of the Maryland Delaware and Pennsylvania newspapers at least thirty days before the said meeting *Pro-* Books may be opened for subscriptions to amount of $500,000, in shares of $200 each, under management of Tobias Rudolph and others, on 1st March, 1800, to remain open one year; and on 1st May 1801 there shall be a general meeting of the subscribers, at Wilmington;

Maryland. 7 Dec 1799.

vided That if the same time of receiving subscriptions and of meeting shall not be appointed by all the said states then there shall be a meeting of the subscribers at the time by them appointed at the place aforesaid notice whereof to be given as aforesaid and the subscriptions made at the times and places appointed by the states of Delaware and Pennsylvania shall then be received and such meeting may and shall be continued from day to day till the business is finished and the acting managers at the time and place aforesaid shall lay before such of the subscribers as shall meet according to the said notice the books by them respectively kept containing the state of the said subscriptions and if one half of the capital sum aforesaid should upon examination appear not to have been subscribed then the said managers at the said meeting are empowered to take and receive subscriptions to make up the deficiency and a just and true list of all the subscribers with the sums subscribed by each shall be made out and returned by the said managers or any four or more of them under their hands to the General Court for the eastern and western shores of Maryland and the Supreme Courts of Delaware and Pennsylvania to be there kept and recorded and in case more than five hundred thousand dollars shall be subscribed then the same shall be reduced to that sum by the said managers or a majority of them by beginning at and striking off a share from the largest subscription or subscriptions and continuing to strike off a share from all subscriptions under the largest and above one share until the sum is reduced to the capital of five hundred thousand dollars or until a share is taken from all subscriptions above one share and lots shall be drawn between subscribers of equal sums to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid and if the sum subscribed still exceeds the capital aforesaid then to strike off by the same rule until the sum subscribed is reduced to the capital aforesaid or all the subscriptions are reduced to one share and if there still be an excess then lots to be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid which striking off shall be certified in the list aforesaid and no person shall subscribe less than one whole share *Provided* That unless two hundred and fifty thousand dollars of said capital shall be subscribed as aforesaid all subscriptions made in consequence of this act shall be void and in case two hundred and fifty thousand dollars and less than the whole of said capital shall be subscribed as aforesaid then the president and directors appointed as herein after mentioned are hereby empowered and directed to take and receive the subscrip-

before which, the managers shall lay the subscription books

and record the names of subscribers in Maryland, Delaware, and Pennsylvania;

but if more than 500,000 dollars be subscribed, shares shall be struck off.

No one shall subscribe less than one share —and unless $250,000 are subscribed, the whole is void.

Maryland. 7 Dec. 1799.

tions which shall be first offered in whole shares as aforesaid until the deficiency shall be made up a certificate of which additional subscriptions shall be made under the hands of the president and directors for the time being or a majority of them and returned to and recorded in the Courts herein before mentioned.

If there be subscribers sufficient, they are incorporated into the Chesapeake and Delaware Canal Company, with corporate powers —to choose a president and nine directors for not more than five years

SECT. III. *And be it enacted* That in case one-half of the said capital or a greater sum shall be subscribed as aforesaid the said subscribers and their heirs and assigns from the time of their said first meeting shall be and are hereby declared to be incorporated by the name of the Chesapeake and Delaware Canal Company and may have perpetual succession and sue and be sued as such and such of the said subscribers as shall be present at the said meeting or a majority of them are hereby empowered and required to elect a president and nine directors for conducting directing and completing said canal and managing the business of the said company for and during such time not exceeding five years as the said subscribers or a majority of them shall think proper and every subscriber shall be allowed one vote for every share not exceeding five shares and one vote for every three shares above ten held by him or her in the said company and any stockholder by writing under his or her hand and seal executed in the presence of two witnesses may depute any other member or stockholder to vote and act as his or her proxy at any general meeting.

by a vote of each subscriber in person or by proxy, duly appointed.

The president and directors to employ persons to execute a canal

SECT. IV. *And be it enacted* That the said president and directors so elected and their successors or a majority of them assembled shall have full power and authority to agree with any person or persons on behalf of the said company to cut such canals and erect such locks and perform such other works as they shall judge necessary for opening improving and extending the navigation between the bay of Chesapeake and the river Delaware and carrying on the same from place to place and from time to time and upon such terms and in such manner as they shall think fit and out of the money arising from the subscriptions and the tolls and other aids herein after given to pay for the same and to repair and keep in order the said canals locks and other works necessary thereto and to defray all incidental charges and also to appoint a treasurer clerk and such other officers toll-gatherers managers and servants as they shall judge requisite and to agree for and settle their respective wages or allowances and settle pass and sign their accounts and also to make and establish rules of proceeding and to transact all the other business and concerns of the said company in and during the intervals between the general meetings of the same and they shall be allowed as a satisfaction for their

and to keep it in order

appoint proper officers,

transact all necessary business,

Maryland. 7 Dec. 1799.

trouble therein such sum of money as shall by a general meeting of the subscribers be determined *Provided always*

and take security from the treasurer.

That the treasurer shall give bond in such penalty and with such security as the said president and directors or a majority of them shall direct for the true and faithful discharge of the trust reposed in him and that the allowance to be made to him for his services shall not exceed five dollars in the hundred for the disbursements by him made and that no officer in the said company shall have any vote in the settlement of passing his own account.

They shall also call for the instalments of the subscribers,

SECT. V. *And be it enacted* That the said president and directors and their successors or a majority of them shall have full power and authority from time to time as money shall be wanted to make and sign orders for that purpose and direct at what time and in what proportion the proprietors shall advance and pay the sums subscribed which

on giving due notice

orders shall be advertised at least three months in some of the Maryland Delaware and Pennsylvania news-papers and they are hereby authorized and empowered to demand and receive of the several proprietors from time to time the sums of money so ordered to be advanced for carrying on and executing or repairing or keeping in order the said works until the sum subscribed shall be fully paid and to order the said sums to be deposited in the hands of the treasurer to be by him disbursed and paid out as the president and directors or a majority of them shall order and direct and

and if they refuse to pay them for one month

if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the time of payment so ordered and advertised as aforesaid the said president and directors or a majority of them may sell at

they may sell their shares

auction and convey to the purchaser the share or shares of such proprietor so refusing or neglecting payment giving at least three months notice of the sale in some of the Maryland Delaware and Pennsylvania newspapers and after retaining the sum due and charges of sale out of the money produced thereby they shall refund and pay the overplus if any to the former owner and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid with the incidental charges the said president and directors or a majority of them may in the name of the company sue for and recover the balance by action of debt or on the case and the said purchaser or purchasers shall be subject to the same rules and regulation as if the said

except in the case of executors, &c. where they shall allow a year.

sale and conveyance had been made by the original proprietor *Provided* That in the case of the death of any stockholder the neglect or refusal of his executor administrator or legatee to make the payment that may be required as aforesaid shall not have the effect to forfeit immediately the

said share or shares held by the said stockholder in his life time but the said executor administrator or legatee shall have one whole year next after the day of the said death to make the payments required.

The proprietors may elect new president and directors when their time has expired,

SECT. VI. And to continue the succession of the said president and directors and to keep up the same number *Be it enacted* That from time to time upon the expiration of the said term for which the said president and directors were appointed the proprietors of the said company at the next general meeting shall either continue the said president and directors or any of them or choose others in their stead and in case of the death removal resignation or incapacity of the president or any of the said directors may and shall in manner aforesaid elect any other person or persons to be president and directors in the room of him or them so dying removing or resigning or becoming incapable and may at any of their general meetings remove the president or any of the directors and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

or may remove them at any general meeting.

SECT. VII. *And be it enacted* That every president and director before he acts as such shall take an oath or affirmation for the due execution of his office.

500 shares at least are necessary to constitute a general meeting— which shall be held on the 1st Monday of June at an appointed place; but a smaller number of shares may adjourn to another day.

SECT. VIII. *And be it enacted* That the presence of proprietors having five hundred shares at the least shall be necessary to constitute a general meeting and that there be a general meeting of the proprietors on the first Monday in June in every year at such convenient place as shall be from time to time appointed by the said general meeting but if a sufficient number should not attend on that day the proprietors who do attend may adjourn such meeting from time to time till a general meeting of proprietors shall be had which may be continued from day to day until the business of the company is finished at which meeting the president and directors shall make report and render distinct and just accounts of all their proceedings and on finding them fairly and justly stated the proprietors then present or a majority of them shall give a certificate thereof duplicate of which shall be entered on the said company's books and at such yearly general meetings after leaving in the hands of the treasurer such sums as the proprietors or a majority of them shall judge necessary for repairs and contingent charges an equal dividend of all the nett profits arising from the tolls hereby granted shall be ordered and made to and among all the proprietors of the said company in proportion to their several shares *Provided nevertheless* That whenever the nett profits arising from said tolls shall exceed thirty per cent. the said president and directors shall

The President and Directors shall report to these meetings,

and they may declare dividends,

but when these dividends exceed 30 per cent. the sur-

Maryland. 7 Dec. 1799.

account annually to and with the states of Maryland and Delaware for the surplus and the same shall be equally divided between the said states and upon any emergency in the interval between the said yearly meetings the said president or a majority of the said Directors may appoint a general meeting of the proprietors of the said company at any convenient place giving at least one month's previous notice in some of the Maryland Delaware and Pennsylvania newspapers which meeting may be adjourned and continued as aforesaid.

plus shall be divided between Delaware and Maryland.

The President or Directors may however call a general meeting at any time on due notice.

SECT. IX. *And be it enacted* That for and in consideration of the expences the said stockholders will be at not only in cutting the said canal and other works for opening the said navigation but in maintaining and keeping the same in repair the said canal and works with all their profits under the limitations aforesaid shall be and the same are hereby vested in the said corporation forever and that it shall and may be lawful for the said president and directors after the said canal shall be made navigable to demand and receive the following tolls at such place or places in the canal as they may hereafter direct *Provided* That the whole toll received shall not amount to more than the rates fixed by this act *that is to say* Every pipe of wine or French brandy containing more than one hundred and twenty gallons one dollar and twenty-five cents Every hogshead of rum or other spirits one dollar Every hogshead of tobacco one dollar Every hogshead of beer cider rice or molasses seventy-five cents Every barrel twenty-five cents and all other casks or kegs in proportion according to the quantity and quality of their contents for casks of linseed oil same as spirits Every bushel of wheat peas beans or flaxseed four cents Every bushel of Indian corn or other grain or salt two cents Every barrel of pork beef or fish thirty cents Every barrel of flour twenty cents Every ton of hemp flax pot-ash bar or manufactured iron two dollars Every ton of pig iron or castings one dollar Every ton of copper lead or other ore other than iron ore one dollar Every tone of stone or iron ore fifty cents Every chaldron of coal thirty-seven cents Every hundred pipe or hogshead staves or pipe or hogshead heading ten cents Every hundred barrel staves or barrel heading six cents Every thousand shingles two feet long or more seventy-five cents Every thousand shingles less than two feet long fifty cents Every hundred cubic feet of plank or scantling seventy-five cents Every hundred cubic feet of other timber forty cents Every gross hundred weight of all other commodities or packages ten cents and for all other commodities the same proportion agreeable to the articles herein enumerated and every boat or vessel which has not

The President and Directors are authorized to demand and receive certain tolls not exceeding a fixed amount on wine,

oil;

pork,

and various other articles.

commodities on board to pay the sum of four dollars shall pay so much as with the commodities on board will yield the sum aforesaid and every empty boat or vessel four dollars except an empty boat or vessel returning whose load has already paid the tolls affixed in which case she shall repass toll free *Provided* Such boat or vessel shall return within fourteen days after paying said tolls.

and on all empty boats.

SECT. X. *And be it enacted* That in case of refusal or neglect to pay the toll at the time of offering to pass through the said canal and previous to the vessel's passing through the same collectors of the said tolls may lawfully refuse passage to such vessel and if any vessel shall pass without paying the said toll then the said collectors may seize such vessel wherever found and sell the same at auction for ready money which so far as is necessary shall be applied towards paying said tolls and all expenses of seizure and sale and the balance if any shall be paid to the owner and the person having the direction of such vessel shall be liable for such toll if the same is not paid by the sale of such vessel as aforesaid *Provided* That the said proprietors or a majority of them holding at least five hundred shares shall have full power and authority at any general meeting to lessen the said tolls or any of them *Provided also* That the same rate of tolls shall be paid on articles passing from Chesapeake to Delaware as upon those paid from Delaware to Chesapeake.

And if these tolls are not paid the vessel may be refused a passage,

or be seized and sold.

These tolls may be lessened by a general meeting,

and shall always be the same in whichever direction a vessel passes.

SECT. XI. *And be it enacted* That the said canal and the works to be erected thereon in virtue of this act when completed shall forever thereafter be esteemed and taken to be navigable as a public highway free for the transportation of all goods commodities or produce whatsoever on payment of the toll imposed by this act and no toll or tax whatever for the use of the water of the said canal and the works thereon erected shall at any time hereafter be imposed by all or either of the said states.

The canal to be a public highway, free for all goods on payment of toll.

SECT. XII. *And whereas* it is necessary for the making the said canal and supplying the same with water that provision should be made for condemning a quantity of land for these purposes *Be it enacted* That it shall and may be lawful for the said president and directors or a majority of them to purchase from the owners thereof any land through which the said canal is intended to pass or through which it may be necessary to supply water to the same and in case of disagreement or in case the owner thereof shall be a *feme covert* under age *non compos* or out of the state on application to any two justices of the county in which such land shall lie the said justices shall issue their warrant under their hands to the sheriff of their county to summon a jury

The President and Directors may purchase land for the canal, but in case of disagreement, or the owner being incapable to sell or absent, they may apply to two justices, who shall have an inquest summoned,

Maryland. 7 Dec. 1799.

to value the land and assess the damages,

of eighteen inhabitants of his county of property and reputation not related to the parties nor in any manner interested to meet on the land to be valued at a day to be expressed in the warrant not less than ten nor more than twenty days thereafter and the sheriff upon receiving the said warrant shall forthwith summon the said jury and when met shall administer an oath or affirmation as the case may require to every juryman that shall appear that he will faithfully and impartially value the land and all damages the owner thereof shall sustain by the cutting the canal through the said land according to the best of his skill and judgment and that in such valuation he will not favor any person nor any person aggrieve for hatred malice or ill-will and the inquisition thereupon taken shall be signed by the sheriff and some twelve or more of the jury and returned by the sheriff to the clerk of his county to be by him recorded and upon every such valuation the jury are hereby directed to describe and ascertain the bounds of the land by them valued and their valuation shall be conclusive on all persons and shall be paid by the said president and directors to the owner of the land or his legal representative before they shall take possession of said land and on the payment thereof the said company shall be seized in fee of said land as if conveyed by the owner to them and their successors in fee by legal conveyance *Provided nevertheless* That if any farther damage shall arise to any proprietor of land in consequence of opening such canal or in erecting such works than had been before considered and valued it shall and may be lawful for such proprietor as often as any such new damage shall happen by application to and warrant from any two justices of the county where the lands lie to have such further damage valued by a jury in like manner and to receive and recover the same of the said president and directors but nothing herein shall be construed or taken to entitle the proprietor of any such land to recover compensation for any damages which may happen to any mills forges or other works or improvements which shall be begun or erected by such proprietor after such valuation unless the same damage is wilfully or maliciously done by the said president and directors or by some person by their authority.

whose inquisition on being recorded, shall be final, and on paying the sum awarded, the company shall hold the lands in fee.

And if further damage occur, it shall be valued in like manner,

but no damages shall be allowed for works erected since the valuation.

The President and Directors may purchase or condemn in the said form an acre for each toll house

SECT. XIII. *And be it enacted* That the said president and directors or a majority of them are hereby authorized to agree with the proprietors for the purchase of a quantity of land not exceeding one acre at or near each of the said places of receipt of tolls aforesaid for the purpose of erecting necessary buildings and in case of disagreement or any of the disabilities aforesaid or the proprietor being out of the

Maryland. 7 Dec. 1799.

state then such land may be valued condemned and paid for as aforesaid for the purpose aforesaid and the said company shall upon payment of the valuation of the said land be seized thereof in fee simple as aforesaid.

The proprietors may transfer their share by deed

SECT. XIV. *And be it enacted* That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses and registered after proof of the execution thereof in the said company's books and not otherwise except by devise which devise shall also be exhibited to the president and directors and registered in the said company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls *Provided* That no transfer whatsoever shall be made except for one or more whole share or shares and not for part of such shares and that no share shall at any time be sold conveyed transferred or held in trust for the use and benefit or in the name of another whereby the said president and directors or proprietors of the said company or any of them shall or may be challenged or made to answer concerning any such trust but that every person appearing as aforesaid to be proprietor shall as to the others of the said company be to every intent taken absolutely as such but as between any trustee and the person for whose benefit any trust shall be created the common remedy may be pursued.

or devise registered in the company's books.

But not less than a whole share shall be transferred,

nor shall it be held in trust so as to make the company liable to any other than the trustee.

SECT. XV. *And be it enacted* That if the said capital and the other aids already granted by this act shall prove insufficient it shall and may be lawful for the said company from time to time to increase the said capital by the addition of so many more whole shares as shall be judged necessary by the said proprietors or a majority of them holding at least five hundred shares present at any general meeting of the said company and the said president and directors or a majority of them are hereby empowered and required after giving at least one month's previous notice thereof in some of the Maryland Delaware and Pennsylvania newspapers to open books at such place or places as shall be directed by said meeting for receiving and entering such additional subscriptions in which the proprietors of the said company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid of taking and subscribing for so many whole shares as any of them shall choose and the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions and in like manner to return under the hands of any four or more of them an exact list

A general meeting convened on due notice,

may open books for receiving new subscriptions.

on which the old stockholders shall have a preference for 30 days.

in other respects the same rules are to be observed

Maryland. 7 Dec. 1799.

as in receiving the first subscriptions.

of such additional subscribers with the sums by them respectively subscribed into the General Courts as aforesaid to be there recorded and all proprietors of such additional shares shall be and they are hereby declared to be from thenceforward incorporated into the said company.

But if any act be not done on the day appointed the charter shall not be affected.

SECT. XVI. *And be it enacted* That if the stockholders or the president and directors aforesaid should neglect or omit or be by an accident prevented from performing any act or thing on the particular day on which it shall be directed by this act to be done and performed such neglect or omission shall not be construed or taken in any manner to destroy or invalidate this charter but the said act may be done at the next convenient day.

Bridges shall be made where the canal crosses public roads.

SECT. XVII. *And be it enacted* That whenever said canal shall cross any public road it shall be the duty of said company at the proper expence of the same to make and keep good and sufficient bridges across said canal so as to prevent any inconveniences in the usage of said road or roads by reason of said canal crossing the same.

In order to give this law effect, a certain law must be passed by the state of Pennsylvania.

SECT. XVIII. *Provided* That this law shall be of no force or effect until a law be passed by the state of Delaware authorizing the cutting the canal aforesaid and until a law shall be passed by the Legislature of Pennsylvania declaring the river Susquehanna to be a highway and authorizing individuals or bodies corporate to remove obstructions therein at a period not exceeding three years from the first day of March eighteen hundred.

Maryland. 18 Dec. 1812.

I. 2. Act passed 18 December, 1812.

CHAPTER EIGHTY-FOUR.

A Supplement to the Act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and Chesapeake Bay.

As the Chesapeake & Delaware Canal would not only be greatly beneficial to the Union,

Whereas during the time of war against the United States of America the completion of the work of the Chesapeake and Delaware Canal would be greatly beneficial to the United States by forming the great link of an inland navigation of six or seven hundred miles and thereby establish a perfectly safe easy and rapid transportation of our armies and the munitions of war through the interior of the country and which would ever tend to operate as a

but especially so to Maryland, Delaware, and Pennsylvania,

cement to the Union between the States And whereas the prosperity and the agricultural interest of the State of Maryland the commonwealth of Pennsylvania and the Delaware state are more deeply interested than their sister states in

Maryland. 18 Dec. 1812.

the useful work of opening a communication between the Chesapeake bay and river Delaware by means of the said Chesapeake and Delaware canal Therefore in order to enable the president and directors of the said canal to prosecute and finish the important work of the said Chesapeake and Delaware canal—

if the U. States subscribe 750 shares, Pennsylvania 375, and Delaware 100 to its stock, then the treasurer of the Western Shore of Maryland is to subscribe 250 shares in the said company,

SECT. 1. *Be it enacted by the General Assembly of Maryland* That if the United States shall subscribe seven hundred and fifty shares the commonwealth of Pennsylvania three hundred and seventy-five shares the state of Delaware one hundred shares in the Chesapeake and Delaware Canal Company in such case the treasurer of the Western shore be and he is hereby authorized and directed to subscribe in behalf of this state two hundred and fifty shares in said company And the money necessary to be paid in consequence of such subscription shall be paid by this state and the treasurer of the Western Shore for the time being shall have a right to vote for president and directors of said company according to such number of shares in person or by proxy appointed by him and the said treasurer shall receive upon the said stock the proportion of the tolls which shall from time to time be due to the state for the shares aforesaid.

and shall be entitled to vote and receive dividends thereon.

This act however not to take effect unless an act be passed by Pennsylvania declaring a certain part of Susquehanna a highway.

SECT. 2 *And be it enacted* That this act shall not take effect unless the Legislature of Pensylvania shall pass or shall have passed a law declaring that in consideration of the act of the Legislature of Maryland incorporating said Canal Company the river Susquehanna from Columbia to the Maryland line shall forever hereafter be a highway and that individuals or bodies corporate may at all times remove obstructions therein.

Copies of this law to be sent to certain persons.

SECT. 3. *Be it enacted* That it shall be the duty of the governor of this state to send a copy of this law to the President of the United States with a request that he lay the same before Congress and a copy to the Governor of the commonwealth of Pennsylvania and also a copy to the Governor of the state of Delaware with a request that they will lay the same before their respective legislatures.

I. 3. Act passed 22 February 1823.

CHAPTER ONE HUNDRED AND SEVENTY-SIX.

Maryland. 22 Feb. 1823.

A further supplement to an act entitled a supplement to an act entitled an act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and Chesapeake bay.

Whereas by an act of the Legislature of Maryland passed at November session eighteen hundred and twelve entitled a supplement to an act entitled an act to incorpo-

Maryland. Feb. 22, 1823.

The treasurer of the Western Shore having been authorized to subscribe to the Chesapeake and Delaware canal on certain conditions which have not been complied with,

rate a company for the purpose of cutting and making a canal between the river Delaware and Chesapeake Bay the treasurer of the Western Shore was authorized to subscribe two hundred and fifty shares in the capital stock of said company on condition that the United States should subscribe seven hundred and fifty shares the commonwealth of Pennsylvania three hundred and seventy-five shares and the state of Delaware one hundred shares And whereas there does not appear to exist a disposition on the part of the United States and the state of Pennsylvania to subscribe their respective quotas in said capital stock and unless the aforesaid condition be dispensed with it will prevent the execution of so important and necessary a work Therefore—

those conditions are repealed,

SECT. I. *Be it enacted by the General Assembly of Maryland* That so much of the conditional part of the first section of an act, entitled a supplement to an act entitled an act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and Chesapeake Bay as requires the United States to subscribe seven hundred and fifty shares and the State of Pennsylvania three hundred and seventy five shares before the treasurer of the Western Shore is authorized to subscribe in behalf of this state be and the same is hereby repealed.

and he is directed to subscribe 250 shares,

SECT. III. *And be it enacted*, That the treasurer of the Western Shore be and he is hereby authorized and directed to subscribe in behalf of this state to the capital stock of the said Chesapeake and Delaware Canal Company the number of shares mentioned in said act in the same manner as if the United States and the State of Pennsylvania had subscribed their respective quotas *Provided always* That the treasurer of this state shall not be authorized to subscribe as above directed until subscriptions to the amount of two hundred and twenty-five thousand dollars shall be obtained from other sources in addition to the amount authorized to be subscribed for by the state of Delaware.

as soon as 225,000 dollars are obtained.

Chesapeake and Delaware Canal.

II. LAWS OF DELAWARE.

1. Act passed 29 January, 1801. Chapter seventy-eight. State Laws, Vol. III. page 170.

Delaware. 29 Jan. 1801.

An Act to incorporate a company for the purpose of Cutting and making a canal between the Chesapeake Bay, and Bay or River Delaware or the waters thereof.

SECTION I. *Be it enacted by the Senate and House of Representatives of the state of Delaware in General*

Delaware. 29 Jan. 1801.

Assembly met That it shall be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars in shares of two hundred dollars each share for the cutting said canal and perfecting the navigation thereof under the management of Joseph Tatnal at Wilmington Archibald Alexander at New Castle Joseph Israel at Christiana-bridge William Cooch at Pencader Hundred Thomas Fitzgerald at Port Penn and Robert Maxwell at Middletown in the county of *New-Castle* James Henry and Ebenezer Blackiston junior at Duck-Creek Cross Roads James Sykes at Dover Peter Caverly at Milford in the county of *Kent* and Outerbridge Horsey at Georgetown and Caleb Rodney at Lewis and Jesse Green at Concord in the county of *Sussex* and under the management of such persons and at such times and places in Maryland and Pennsylvania as is or shall be appointed by acts of the Legislature of those states that the said books shall be opened on the first day of March eighteen hundred and two and shall continue open for this purpose until the first day of March eighteen hundred and three and on the first day of May thereafter there shall be a general meeting of the subscribers at the town of Wilmington in the state of Delaware of which meeting notice shall be given by the said managers or any four of them in some of the Maryland, Delaware and Pennsylvania newspapers, at least thirty days before the said meeting *Provided* that if the same time of receiving subscriptions and of meeting should not be appointed by all the said states then there shall be a meeting by the subscribers at the time by them appointed at the place aforesaid notice whereof to be given as aforesaid and the subscriptions made at the times and places appointed by the said states respectively shall then be received and such meeting may and shall be continued from day to day till the business is finished and the acting managers at the time and place aforesaid shall lay before such of the subscribers as shall meet according to the said notice the books by them respectively kept containing the state of the said subscriptions and if one half of the capital sum aforesaid should upon examination appear not to have been subscribed then the said managers at the said meeting are empowered to take and receive subscriptions to make up the deficiency and a just and true list of all the subscribers with the sums described by each shall be made out and returned by the said managers or any four or more of them under their hands to the General Court for the Eastern and Western shores of Maryland and to the Supreme Court of the states of Delaware and Pennsylvania to be there kept and recorded and in case more than five

Subscription books to be opened by Joseph Tatnal, &c.

On the first day of March, 1802.

Subscribers to meet in Wilmington, on notice given by the managers. Proviso.

Managers shall lay before the subscribers the books kept by them.

A list of the subscribers shall be returned to the Supreme Court of Delaware, &c.

Delaware. 29 Jan. 1801.

How an overplus in the capital shall be reduced.

hundred thousand dollars shall be subscribed then the sum shall be reduced to that sum by the said managers or a majority of them by beginning at and striking off a share from the largest subscription or subscriptions and continuing to strike off a share from all subscriptions under the largest and above one share until the sum is reduced to the capital of five hundred thousand dollars or until a share is taken from all subscriptions above one share and lots shall be drawn between subscribers of equal sums to determine the numbers in which such subscribers shall stand on a list to be made for striking off as aforesaid and if the sum subscribed still exceeds the capital aforesaid then to strike off by the said rule until the sum subscribed is reduced to the capital aforesaid or all the subscriptions are reduced to one share and if there still be an excess, then lots to be drawn to determine the subscribers who are to be excluded to reduce the subscriptions to the capital aforesaid which striking off shall be certified in the list aforesaid and no person shall subscribe less than one whole share *Provided* That unless two hundred and fifty thousand dollars of the said capital shall be subscribed as aforesaid all subscriptions made in consequence of this act shall be void and in case two hundred and fifty thousand dollars and less than the whole said capital shall be subscribed as aforesaid then the president and directors appointed as hereinafter mentioned are hereby empowered and directed to take and receive the subscriptions which shall be first offered in whole shares as aforesaid until the deficiency shall be made up a certificate of which additional subscriptions shall be made under the hands of the president and directors for the time being or of a majority of them and returned to and recorded in the courts herein before mentioned.

Unless half the capital is subscribed, all subscriptions shall be void.

Incorporation of the company.

Style of the corporation.

Empowered to elect a president and directors.

SECT. II. *And be it enacted* That in case one half of the said capital or a greater sum shall be subscribed as aforesaid the said subscribers and their heirs and assigns from the time of their said first meeting shall be and they are hereby declared to be incorporated by the name of the *Chesapeake and Delaware Canal Company* and may have perpetual succession and sue and be sued as such and such of the said subscribers as shall be present at the said meeting or a majority of them, are hereby empowered and required to elect a president and nine directors for conducting directing and completing said canal and managing the business of the said company for and during such time not exceeding five years as the said subscribers or a majority of them shall think proper and every subscriber shall be allowed one vote for every share not exceeding five shares and one vote for every three shares above ten

Delaware. 29 Jan. 1801.

held by him or her in the said company and any stockholder by writing under his or her hand and seal executed in the presence of two witnesses, may depute any other member or stockholder to vote and act as his or her proxy at any general meeting.

Powers of the president and directors,

SECT. III. *And be it enacted* That the said president and directors so elected and their successors or a majority of them assembled shall have full power and authority to agree with any person or persons on behalf of the said company to cut such canals and erect such locks and perform such other works as they shall judge necessary for opening improving and extending the navigation between the bay of Chesapeake and the river Delaware or the waters of Chesapeake and the said river or bay of Delaware and carrying on the same from place to place and from time to time, and upon such terms and in such manner as they shall think fit and out of the money arising from the subscriptions and tolls, and other aids hereinafter given to pay for the same and to repair and keep in order the said canals locks and other works necessary thereto and to defray all incidental charges and also to appoint a treasurer clerk and such other officers toll-gatherers managers and servants as they shall judge requisite and to agree for and settle their respective wages or allowances and settle pass and sign their accounts and also to make and establish rules of proceedings and to transact all other business and concerns of the said company in and during the intervals between the general meetings of the same and they shall be allowed as a satisfaction for their trouble therein such sum of money as shall by a general meeting of the subscribers be determined *Provided always* That the treasurer shall give bond in such penalty and with such security as the said president and directors or a majority of them shall direct for the true and faithful discharge of the trust reposed in him and that the allowance to be made to him for his services, shall not exceed five dollars in the hundred for the disbursements by him made and that no officer in the said company shall have any vote in the settlement or passing his own account.

to elect officers.

Treasurer shall give bond.

His allowance.

President and directors empowered to draw on the proprietors.

SECT. IV. *And be it enacted* That the said president and directors or a majority of them shall have full power and authority from time to time as money shall be wanted to make and sign orders for that purpose and direct at what time and in what proportion the proprietors shall advance and pay the sums subscribed which orders shall be advertised at least three months in some of the Maryland Delaware and Pennsylvania newspapers and they are hereby authorized and empowered to demand and receive

Delaware. 29 Jan. 1801.

of the several proprietors from time to time the sums of money so ordered to be advanced for carrying on and executing or repairing and keeping in order the said works until the sums subscribed shall be fully paid and to order the said sums to be deposited in the hands of the treasurer to be by him disbursed and paid out as the said president and directors or a majority of them shall order and direct and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the time of payment so ordered and advertised as aforesaid then the share or shares of the said proprietor and all moneys thereon paid shall be forfeited to the company and shall be sold by them to any person willing to purchase for such price as can be obtained therefor and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor *Provided* that in case of the death of any stockholder the neglect or refusal of his executor administrator or legatee to make the payment that may be required as aforesaid shall not have the effect to forfeit immediately the said share or shares held by the said stockholder in his lifetime but the said executor administrator or legatee shall have one whole year next after the said death to make the payment required.

Treasurer to receive and pay the same.

Penalty for neglect.

Proviso.

Continuance of officers.

SECT. V. *And to continue the succession* of the said president and directors and to keep up the same number *Be it enacted* That from time to time upon the expiration of the said term for which the said president and directors were appointed the proprietors of the said company at the next general meeting shall either continue the said president and directors or any of them or chuse others in their stead and in case of the death removal resignation or incapacity of the president or any of the said directors may and shall in manner aforesaid elect any other person or persons to be president and directors in the room of him or them so dying removing or resigning or becoming incapable and may at any of their general meetings remove the president or any of the directors and appoint others for and during the remainder of the term for which snch person or persons were at first to have acted.

Officers to take an oath for the due execution of his office.

SECT. VI. *And be it enacted* That every president and director before he acts as such shall take an oath or affirmation for the due execution of his office.

Proprietors holding 500 shares, necessary to form a general meeting.

Time of meeting.

SECT. VII. *And be it enacted* That the presence of proprietors having five hundred shares at the least shall be necessary to constitute a general meeting and there be a general meeting of proprietors on the first Monday of June in every year at such convenient place as shall be from time to time appointed by the said general meeting but if

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a sufficient number should not attend on that day the proprietors who do attend on that day may adjourn such meeting from time to time till a general meeting of proprietors shall be had which may be continued from day to day until the business of the company is finished at which meeting the president and directors shall make report and render distinct and just accounts of all their proceedings and in finding them fairly and justly stated the proprietors then present or a majority of them shall give a certificate thereof a duplicate of which shall be entered on the said company's books and at such yearly general meetings after leaving in the hands of the treasurer such sum as the proprietors or a majority of them shall judge necessary for repairs and contingent charges an equal dividend of all the net profits arising from the tolls hereby granted shall be ordered and made to and among all the proprietors of the said company in proportion to their several shares.

President, &c. shall render accounts of their proceedings.

Profits vested in the corporation.

SECT. VIII. *And be it enacted* That for and in consideration of the expences the said stockholders will be at not only in cutting the said canal and other works for opening the said navigation but in maintaining and keeping the same in repair the said canal works with all their profits under the limitations aforesaid shall be and the same are hereby vested in the said corporation forever subject *nevertheless* to the condition hereafter mentioned and that it shall and may be lawful for the said president and directors after the said canal shall be made navigable to demand and receive the following tolls at such place or places in the canal as they may hereafter direct *Provided* that the whole toll received shall not amount to more than the rates fixed by this Act *that is to say:*

Rates of toll.

	Dols.	*Cts.*
Every Pipe of Wine or French Brandy - -	1	25
Every Hogshead of Wine or Rum or other Spirits	1	0
Every Hogshead of Tobacco - - -	1	0
Every Hogshead of Beer Cider Rice or Molasses -	0	75
Every Barrel - - - - - -	0	25
And all other Casks or Kegs in proportion according to the Quantity and Quality of their contents.		
For casks of Linseed Oil same as Spirits.		
Every Bushel of Wheat Peas Beans or Flaxseed -	0	4
Every Bushel of Indian Corn or other Grain or Salt - - - - - - -	0	2
Every Barrel of Pork Beef or Fish - -	0	30
Every Barrel of Flour - - - -	0	20
Every Ton of Hemp Flax Potash Bar or manufactured Iron - - - - - -	2	0

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Rates of toll.

	Dols.	*Cts.*
Every Ton of Pig Iron or Castings - -	1	0
Every Ton of Copper Lead or Ore other than Iron Ore - - - - - -	1	0
Every Ton of Stone or Iron Ore - - -	0	50
Every Chaldron of Coals - - -	0	37
Every Hundred Pipe or Hogshead Staves or Pipe or Hogshead Heading - - - -	0	10
Every Hundred Barrel Staves or Barrel Heading	0	6
Every Thousand Shingles two feet long or more -	0	75
Every Thousand Shingles less than two feet long	0	50
Every Hundred Cubic Feet of Plank or Scantling	0	75
Every Hundred Cubic Feet of other Timber -	0	40
Every Gross Hundred Weight of all other Commodities or Packages - - - -	0	10

And for all other commodities the same proportion agreeably to the articles herein enumerated.

And every boat or vessel which has not commodities on board to pay the sum of four dollars shall pay so much as with the commodities on board will yield the sum aforesaid.

And every empty boat or vessel four dollars except an empty boat or vessel returning whose load has already paid the tolls affixed in which cases he shall repass toll free *Provided* such boat or vessel shall return within thirty days after paying said tolls.

Penalty on persons refusing to pay toll.

SECT. IX. *And be it enacted* That in case of refusal or neglect to pay the toll at the time of offering to pass through the said canal and previous to the vessel passing through the same the collectors of the said tolls may lawfully refuse passage to such vessel and if any vessel shall pass without paying the said toll then the said collectors may seize such vessel wherever found and sell the same at auction for ready money which so far as is necessary shall be applied towards paying said toll and all expences of seizure and sale and the balance if any shall be paid to the owner and the person having the direction of such vessel shall be liable for such toll if the same is not paid by the sale of such vessel as aforesaid *Provided* that the said proprietors or a majority of them holding at least five hundred shares shall have full power and authority at any general meeting to lessen the said tolls or any of them *Provided also* that the same rate of tolls shall be paid on articles passing from Chesapeake to Delaware as upon those paid from Delaware to Chesapeake.

Canal to be esteemed a public highway.

SECT. X. *And be it enacted* That the said canal and the works to be erected thereon in virtue of this act when completed shall forever thereafter be esteemed and taken

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to be navigable as a public highway free for the transportation of all goods commodities or produce whatsoever on payment of the tolls imposed by this act and no toll or tax whatsoever for the use of the waters of the said canal and the works thereon erected shall at any time hereafter be imposed by all or either of the said States except as is herein after *provided*.

President, &c., may agree with the owners of lands for the purchase thereof.

SECT. XI. *And be it enacted* That it shall and may be lawful for the president and directors or a majority of them to contract and agree with the owner or owners of any land and tenements for the purchase of so much thereof as shall be necessary for making digging and perfecting so much of the said canal as may pass through this State and of erecting and establishing all the necessary locks works and devices to such a navigation belonging if they can agree with such owners but in case of disagreement or in case the owner thereof shall be *a feme covert* under age *non compos mentis* or out of the State or otherwise incapacitated to convey then it shall and may be lawful to and for the said president and directors to apply to the clerk of the supreme court of this State for the county or counties through which the said canal is intended to pass who upon such application is hereby authorized empowered enjoined and required to issue one or more writ or writs as occasion shall require in the nature of a writ of *ad quod damnum* to be directed to the sheriff of the county in which such lands and tenements shall be describing the same and naming the owner thereof and commanding the said sheriff that by the oaths or affirmations of twelve good and lawful men of his bailiwick who shall be indifferent to the parties he shall inquire whether the person or persons owning any lands and tenements necessary to be used by the said president and directors or which shall be injured by the establishment of the said canal will suffer and sustain any and what damages by reason or means of taking any such lands tenements or other real hereditaments necessary for the use of the said canal and navigation and the locks and works thereto belonging or by reason of the said canal passing through any such lands and tenements and separating the same or by any ways or means whatever and to return the same writ together with the finding of the said jury to the next supreme court of this State after such finding and upon such writ being delivered to the said sheriff he shall give at least ten days' notice in writing to the parties in the said writ named or their representatives of the time of executing the same and shall cause to come upon the premises at the time appointed twelve good and lawful men of his bailiwick who shall be selected in such manner as struck juries usually

But if the owner is incapacitated to sell; then the clerk of the supreme court, &c.

Sheriff to return the writ to the supreme court.

To give notice to the parties.

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Oath of the jurors.

are to whom he shall administer an oath or affirmation *that they will diligently inquire concerning the matters and things in the said writ specified and a true verdict give according to the best of their judgments and ability without favor or partiality to any* and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements or other real hereditaments in such writ specified and having considered the quantity and quality of so much as shall be necessary to be vested in the said company for the purposes aforesaid they shall cause the same to be minutely and exactly described by metes and bounds or other particular descriptions and shall value and appraise

Jury to assess damages.

the injury and damages which the owner or owners of such lands tenements hereditaments or other improvements will according to their best skill and judgment sustain and suffer by means of the same being vested in the said company or by means of any works being destroyed or rendered useless or of less value or by reason of said canal passing through any such lands and tenements and separating the same or by means of any water-course being diverted and turned or emptied into the said canal or by any means whatsoever defining and ascertaining as well all such lands and tenements liberties and privileges so to be vested in the said company as the several sums at which the said injuries and damages shall be so assessed and the said sheriff and jury

Sheriff and jury to make inquisition and return it to the supreme court;

shall make an inquisition under their hands and seals distinctly setting forth all the matters and things aforesaid and the sheriff shall forthwith return the sum together with the said writ to the office of the clerk of the supreme court and at the first supreme court which shall be held next after the return of any such writ the judges of the said court shall examine the same and if the said writ shall appear to have been duly executed and the return thereof be sufficient to ascertain the lands and tenements rights liberties and privileges intended to be vested in the said company and the several compensations awarded to the owners thereof then

who is authorized to enter judgment.

the said court shall enter judgment that the said company paying to the owners as aforesaid the several sums of money in the said inquisition assessed or bringing the same into court for the use of such owners and also paying the

The company, on payment of the damages, entitled to the land.

costs of the said writ and of executing and returning the same shall be entitled to have and to hold to them and their successors and assigns forever all and every the lands tenements rights liberties and privileges in the said inquisition described as fully and effectually as if the same had been granted to them by the respective owners thereof and if any return so to be made shall not be sufficiently certain for the

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persons aforesaid the said court shall award an inquisition *de novo*.

President, &c., may purchase land for the erection of buildings.

SECT. XII. *And be it enacted* That the said president and directors or a majority of them are hereby authorized to agree with the proprietors for the purchase of a quantity of land not exceeding one acre at or near convenient places for the receipt of tolls aforesaid for the purpose of erecting necessary buildings and in case of disagreement or any of the disabilities aforesaid or the proprietor being out of the State then such land may be valued condemned and paid for as aforesaid for the purpose aforesaid and the said company shall upon payment of the valuation of the said land be seized thereof in fee simple as aforesaid.

Proprietors may sell their shares.

SECT. XIII. *And be it enacted* That it shall and may be lawful for every of the said proprietors to transfer his share or shares by deed executed before two witnesses and registered after proof of the execution thereof in the said company's books and not otherwise except by devise which devise shall also be exhibited to the president and directors and registered in the said company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls *Provided* that no transfer whatsoever shall be made except for one or more whole share or shares and not for part of such shares and that no share shall at any time be sold conveyed transferred or held in trust for the use and benefit or in the name of another whereby the said president and directors or proprietors of said company or any of them shall or may be challenged or made to answer concerning any such trust but that every person appearing as aforesaid to be a proprietor shall as to others of the said company be to every intent taken absolutely as such but as between any trustee and the person for whose benefit any trust shall be created the common remedy may be pursued.

The company may increase the capital, as from time to time appears to them necessary.

SECT. XIV. *And be it enacted* That if the said capital and the other aids already granted by this act shall prove insufficient it shall and may be lawful for the said company from time to time to increase the said capital by the addition of so many more whole shares as shall be judged necessary by the said proprietors or a majority of them holding at least five hundred shares present at any general meeting of the said company and the said president and directors or a majority of them are hereby empowered and required after giving at least one month previous notice thereof in some of the Maryland Delaware and Pennsylvania newspapers to open books at such place or places as shall be directed by said meeting for receiving and entering such additional subscriptions in which the proprietors of the said

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company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid of taking and subscribing for so many whole shares as any of them shall choose and the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions and in like manner to return under the hands of any four or more of them an exact list of such additional subscriptions with the sums by them respectively subscribed into the general courts as aforesaid to be there recorded and all proprietors of such additional shares shall be and they are hereby declared to be from thence forward incorporated into the said company.

Stockholders omitting their duty, shall not destroy this charter.

SECT. XV. *And be it enacted* That if the stockholders or the president and directors aforesaid should neglect or omit or be by any accident prevented from performing any act or thing on the particular day on which it is directed by this act to be done and performed such neglect or omission shall not be construed or taken in any manner to destroy or invalidate this charter but the said act may be done at the next convenient day.

Bridges to be kept across the canal at all the public roads.

SECT. XVI. *And be it enacted* That whenever said canal shall cross any public road it shall be the duty of said company at the proper expence of the same to make and keep good and sufficient bridges across the said canal so as to prevent any inconvenience in the usage of said road or roads by reason of said canal crossing the same and that it shall be lawful for the legislature of this state at all times hereafter to enact laws for the erecting and maintaining bridges across the said canal at the expence of the said company and to subject the said company to forfeitures pains and penalties for not complying with such laws.

Legislature empowered to erect bridges.

Per centum to the state.

SECT. XVII. *Provided nevertheless and be it enacted* That whenever and so long as the net profits arising from the said tolls shall amount to ten per centum per annum or more the Chesapeake and Delaware canal company aforesaid shall pay into the treasury of this state for the use of the state one tenth part of the said net profits annually in half yearly payments forever and in default of the payment of the said tenth part of the said net profits at or before the respective times herein before limited and appointed then all the estate hereby granted to the said Chesapeake and Delaware canal company in the lands and tenements which may be purchased or condemned as aforesaid shall cease and determine and all and every the said lands and tenements shall revert to their former owner or owners

thereof or their heirs and the benefit of taking tolls granted by this act shall cease and determine.

Company shall not lessen the rates of toll.

SECT. XVIII. *Provided nevertheless and be it enacted* That it shall not be lawful for the said Chesapeake and Delaware canal company to lessen the rates of tolls fixed by this act without the assent of the legislature of the State of Delaware.

The corporation not complying with the terms contained in this act, shall be dissolved.

SECT. XIX. *And be it enacted* That it is on the condition of the Chesapeake and Delaware canal company making the payments and complying with the terms mentioned in the seventeenth and eighteenth sections of this act that this present act of incorporation is passed and in case the same and every part thereof shall not be complied with by the Chesapeake and Delaware canal company aforesaid according to the true intent and meaning thereof the authority estate right privileges and tolls hereby given to them shall cease and determine and the said corporation shall *ipso facto* be dissolved and this act be repealed any thing herein contained to the contrary in any wise notwithstanding.

Books of the company shall be open to the inspection of the auditor.

SECT. XX. *And be it enacted* That the books papers and transactions of the said Chesapeake and Delaware canal company shall at all times be open to the inspection and examination of the auditor of accounts or such other person or persons as shall be appointed by the general assembly of this state for that purpose in order that the net profits arising from the said tolls may be ascertained and reported to the general assembly.

This act to be of no effect until the State of Pennsylvania pass certain laws.

SECT. XXI. *And be it enacted* That this act of general assembly shall be of no force or effect until the State of Pennsylvania shall pass a law to authorize and empower an agent or agents to be appointed by the governor of this state to have free access to the papers in their land office and to transcribe and copy or procure to be transcribed and copied under his or their care and direction in one or more well bound books in folio all such warrants surveys resurveys patents grants and other original papers as may be found in the land office or in any other office of the state of Pennsylvania which in any wise relate to or make the title or part of the title to lands tenements or hereditaments within this state and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices and also until such transcripts and copies shall be actually made and compared with such warrants surveys resurveys patents grants and other original papers by such agent or agents as aforesaid and be brought into this state by the said agent or agents for the use of the citizens of the state and also until all such

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company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid of taking and subscribing for so many whole shares as any of them shall choose and the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions and in like manner to return under the hands of any four or more of them an exact list of such additional subscriptions with the sums by them respectively subscribed into the general courts as aforesaid to be there recorded and all proprietors of such additional shares shall be and they are hereby declared to be from thence forward incorporated into the said company.

Stockholders omitting their duty, shall not destroy this charter.

SECT. XV. *And be it enacted* That if the stockholders or the president and directors aforesaid should neglect or omit or be by any accident prevented from performing any act or thing on the particular day on which it is directed by this act to be done and performed such neglect or omission shall not be construed or taken in any manner to destroy or invalidate this charter but the said act may be done at the next convenient day.

Bridges to be kept across the canal at all the public roads.

SECT. XVI. *And be it enacted* That whenever said canal shall cross any public road it shall be the duty of said company at the proper expence of the same to make and keep good and sufficient bridges across the said canal so as to prevent any inconvenience in the usage of said road or roads by reason of said canal crossing the same and that it shall be lawful for the legislature of this state at all times hereafter to enact laws for the erecting and maintaining bridges across the said canal at the expence of the said company and to subject the said company to forfeitures pains and penalties for not complying with such laws.

Legislature empowered to erect bridges.

Per centum to the state.

SECT. XVII. *Provided nevertheless and be it enacted* That whenever and so long as the net profits arising from the said tolls shall amount to ten per centum per annum or more the Chesapeake and Delaware canal company aforesaid shall pay into the treasury of this state for the use of the state one tenth part of the said net profits annually in half yearly payments forever and in default of the payment of the said tenth part of the said net profits at or before the respective times herein before limited and appointed then all the estate hereby granted to the said Chesapeake and Delaware canal company in the lands and tenements which may be purchased or condemned as aforesaid shall cease and determine and all and every the said lands and tenements shall revert to their former owner or owners

thereof or their heirs and the benefit of taking tolls granted by this act shall cease and determine.

Company shall not lessen the rates of toll.

SECT. XVIII. *Provided nevertheless and be it enacted* That it shall not be lawful for the said Chesapeake and Delaware canal company to lessen the rates of tolls fixed by this act without the assent of the legislature of the State of Delaware.

The corporation not complying with the terms contained in this act, shall be dissolved.

SECT. XIX. *And be it enacted* That it is on the condition of the Chesapeake and Delaware canal company making the payments and complying with the terms mentioned in the seventeenth and eighteenth sections of this act that this present act of incorporation is passed and in case the same and every part thereof shall not be complied with by the Chesapeake and Delaware canal company aforesaid according to the true intent and meaning thereof the authority estate right privileges and tolls hereby given to them shall cease and determine and the said corporation shall *ipso facto* be dissolved and this act be repealed any thing herein contained to the contrary in any wise notwithstanding.

Books of the company shall be open to the inspection of the auditor.

SECT. XX. *And be it enacted* That the books papers and transactions of the said Chesapeake and Delaware canal company shall at all times be open to the inspection and examination of the auditor of accounts or such other person or persons as shall be appointed by the general assembly of this state for that purpose in order that the net profits arising from the said tolls may be ascertained and reported to the general assembly.

This act to be of no effect until the State of Pennsylvania pass certain laws.

SECT. XXI. *And be it enacted* That this act of general assembly shall be of no force or effect until the State of Pennsylvania shall pass a law to authorize and empower an agent or agents to be appointed by the governor of this state to have free access to the papers in their land office and to transcribe and copy or procure to be transcribed and copied under his or their care and direction in one or more well bound books in folio all such warrants surveys resurveys patents grants and other original papers as may be found in the land office or in any other office of the state of Pennsylvania which in any wise relate to or make the title or part of the title to lands tenements or hereditaments within this state and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices and also until such transcripts and copies shall be actually made and compared with such warrants surveys resurveys patents grants and other original papers by such agent or agents as aforesaid and be brought into this state by the said agent or agents for the use of the citizens of the state and also until all such

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original warrants surveys resurveys patents grants and other papers which can be taken and separated from other records and papers in said land office or other offices of the state of Pennsylvania shall be first selected by and delivered whole and undefaced as they now remain to such agent or agents and he or they be allowed to bring the same into this state and to be kept here for the use of the citizens of the state and as soon as the said transcripts and copies and original warrants surveys resurveys patents grants and other original papers shall be so procured and brought into this state the governor is hereby directed and required to give public notice thereof by proclamation from the date whereof this act shall have operation and be in full force and effect and not before upon the terms and conditions mentioned in this act.

SECT. XXII. *And whereas* it is the opinion of this legislature that the ports of Wilmington and New-Castle in this state have been materially affected by the operation and effect of certain provisions and regulations contained in the quarantine laws of the commonwealth of Pennsylvania it is hereby expressly provided *and be it enacted* that this law shall be of no force or effect whatsoever until the legislature of the commonwealth of Pennsylvania shall repeal such part or parts of their quarantine laws as do require a longer term or time for the admission into the port of Philadelphia of goods wares and merchandizes which have been unladen within this state from on board any ship or vessel coming from any sickly port or place into this state or which may have been originally bound for Philadelphia or elsewhere or for the admission into the city of Philadelphia of the crew or passengers of such ship or vessel than is required by the same laws for the admission into the said port of Philadelphia of goods wares and merchandizes unladen within the commonwealth of Pennsylvania from on board any ship or vessel coming from any sickly port or place into the commonwealth of Pennsylvania or of the crew or passengers.

II. 2. Act passed 5 February 1802.

CHAPTER ONE HUNDRED AND FIFTEEN.

State Laws, Vol. 3, page 246.

Delaware. 5 Feb. 1802.

A Supplement to the act entitled "An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof."

Preamble.

Whereas it appears to this legislature that the eighteenth section of the act to which this is a supplement which pre-

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vents the said company from lessening the rates of tolls fixed by the said act may prevent the incorporation of a company for the liberal and beneficial purposes mentioned in the said act agreeably to the other provisions therein contained.

Eighteenth section of original act repealed.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met* That the said section of the act to which this is a supplement be and the same is hereby repealed made null and void;

Tolls not to be lessened below a certain amount.

Provided nevertheless and it is hereby enacted That it shall not be lawful for the said Chesapeake and Delaware canal company to lessen the rates of tolls fixed by the act to which this is a supplement more than one fourth of such rates of tolls without the assent of the legislature of the state of Delaware.

Certain conditions having been made in the act last passed,

And whereas By the twenty-first section of the act to which this is a supplement it is provided that the same shall be of no force or effect 'Until the state of Pennsyl-'vania shall pass a law to authorize and empower an agent 'or agents to be appointed by the governor of this state to 'have free access to the papers in their land office, and to 'transcribe and copy or procure to be transcribed or copied 'under his or their care and direction in one or more well 'bound books in folio all such warrants surveys re-surveys 'patents grants and other original papers as may be found 'in the land office or in any other office of the state of 'Pennsylvania which in any wise relate to or make the 'title or part of the title to lands tenements or hereditaments 'within this state and which cannot be removed without 'injuring or spoiling the records or other papers in the said 'office or offices and also until such transcripts and copies 'shall be actually made and compared with such warrants 'surveys re-surveys patents grants and other original papers 'by such agent or agents as aforesaid and be brought into 'this state by the said agent or agents for the use of the citi-'zens of the state and also until all such original warrants 'surveys re-surveys patents grants and other papers which 'can be taken and separated from other records and papers 'in said land office or other offices of the state of Pennsyl-'vania shall be first selected by and delivered whole and 'undefaced as they now remain to such agent or agents 'and he or they be allowed to bring the same into this state 'and to be kept here for the use of the citizens of this state 'and as soon as the said transcripts and copies and original 'warrants surveys re-surveys patents grants and other origi-'nal papers shall be so procured and brought into this state 'the governor is hereby directed and required to give public

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'notice thereof by proclamation from the date whereof this 'act shall have operation and be in full force and effect and 'not before upon the terms and conditions mentioned in 'this act.'

and it appearing that those conditions have been performed,

And whereas It appears to this legislature that Samuel White esquire was duly appointed by the governor of this state the agent to procure the original papers or transcripts thereof mentioned in the said section last aforesaid of the act to which this is a supplement and that he has by memorial to this general assembly stated that the land office of Pennsylvania has been freely opened to him and leave granted to procure the papers aforesaid or transcripts thereof to be taken by him and that he has received every liberal aid from the officers of the state of Pennsylvania and it also appears that most of the original papers have been procured which could be separated from those appertaining to Pennsylvania and actually lodged by the agent aforesaid in the recorder's office for Kent county:

And whereas It also appears from the statement of the said agent to this legislature that it will require near ten months to complete the transcribing of all the papers aforesaid necessary to be transcribed long before which time the law of Maryland for incorporating the aforesaid canal company will expire.

SECT. II. *Be it enacted* That so much of the section last mentioned of the act to which this is a supplement which enacts that the said act shall be of no force or effect 'Until such transcripts and copies therein mentioned shall 'be actually made and compared with such warrants sur-

certain parts of the said act act

'veys re-surveys patents grants and other original papers 'by such agent or agents therein mentioned and be brought 'into this state by the said agent or agents for the use of 'the citizens of the state and also until all such original 'warrants surveys resurveys patents grants and other papers 'therein mentioned which can be taken and separated from 'other records and papers in said land office or other offices 'of the state of Pennsylvania shall be first selected by and 'delivered whole and undefaced as they now remain to 'such agent or agents and he or they be allowed to bring 'the same into this state; and to be kept here for the use of 'the citizens of the state' and also such parts thereof as require that the said original papers should be actually brought into this state be and the same is hereby repealed made null and void.

are repealed.

When the governor shall proclaim original act in force.

SECT. III. *And be it enacted* That so soon as the state of Pennsylvania shall comply fully and effectually with the conditions of the twenty-second section of the act to which this is a supplement then and not before the governor

shall and he is hereby authorized and required immediately to proclaim the said act in full operation force and effect agreeably to the provisions contained in the same.

Delaware. 5 Feb. 1802.

II. 3. Proclamation of the Governor of Delaware, Issued 27 February 1802.

A PROCLAMATION.

In the name and by the authority of the State of Delaware by David Hall Governor of the said state.

Delaware. 27 Feb. 1802.

Whereas it is provided in and by the twenty-second section of an act of the general assembly of said state entitled "An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof" that the said act be of no force or effect whatsoever until the legislature of the commonwealth of Pennsylvania shall repeal such part or parts of the quarantine laws as do require a longer term or time for the admission into the port of Philadelphia of goods wares and merchandizes which have been unladen within this state from on board of any ship or vessel coming from any sickly port or place into this state or which may have been originally bound for Philadelphia or elsewhere or for admission into the city of Philadelphia of the crew or passengers of such ship or vessel than is required by the same laws for the admission into the said port of Philadelphia of goods wares and merchandizes unladen within the commonwealth of Pennsylvania from on board of any ship or vessel coming from any sickly port or place into the commonwealth of Pennsylvania or of the crew or passengers." *And whereas* the conditions contained in the said twenty-second section have been fully and effectually complied with by the legislature of the said commonwealth of Pennsylvania by an act of the said legislature entitled "An act to alter and amend the health laws so far as respects vessels goods and passengers coming from any port or place in the state of Delaware."

A certain condition having been contained in the act of 29 Jan. 1801 without the performance of which that act is void,

and those conditions having been fully complied with

Now therefore by virtue of the power and authority in me vested by the act of the general assembly of this state entitled "A supplement to the act entitled an act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof" passed at Dover February the fifth in the year of our Lord one thousand eight hundred and two I have issued this proclamation hereby publishing and declaring the act first before mentioned in full operation force and effect agreeably to the provisions contained in the same.

the governor by this proclamation declares that act to be valid.

Delaware.
18 Jan. 1811.

II. 4. Act passed 18 January, 1811.

CHAPTER ONE HUNDRED AND THIRTY-TWO.

State Laws, Vol. IV. page 348.

An additional supplement to an act entitled "An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof."

Preamble.

Whereas it appears to this legislature that the seventeenth eighteenth nineteenth and twentieth sections of the act to which this is a supplement and a part of the first section of a supplement to the said act which prevents the said company from lessening the rates of toll fixed by the said act more than one-fourth of such rates and tolls and reserves to the state of Delaware one-tenth part of the profits arising from the said tolls after the same shall amount to ten per centum per annum may prevent the said company from raising funds adequate to the purpose of accomplishing the great design of a canal between the bays of Chesapeake and Delaware.

Repeal of 17, 18, 19 and 20 sections of original act.

SECTION I. *Be it therefore enacted by the Senate and House of Representatives of the state of Delaware in General Assembly met* That the said seventeenth eighteenth nineteenth and twentieth sections of the act to which this is a supplement be and the same are hereby repealed made null and void.

Repeal of 1 section of supplement.

SECT. II. *And be it further enacted by the authority aforesaid* That so much of the said first section of the supplement to the said act as prevents the said company from lessening the rates of toll fixed by the said act more than one-fourth of such rates of toll without the assent of the legislature of the state of Delaware be and the same is hereby repealed made null and void.

Proviso that tolls shall not exceed a certain amount.

SECT. III. *Provided nevertheless and be it enacted* That whenever and so long as the net profits arising from the said tolls shall amount to fifteen per centum per annum the Chesapeake and Delaware canal company shall lessen the rates of toll fixed by the said act so that the same shall not exceed twelve per centum per annum.

II. 5. Act passed 5 February 1823.

CHAPTER ONE HUNDRED AND NINETY.

Pamphlet Laws page 310.

Delaware.
5 Feb. 1823

An act authorizing a subscription to the stock of the Chesapeake and Delaware canal.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General As-*

Delaware.
25 Feb. 1823.

sembly met That as soon as books shall be opened for subscriptions to the stock of the "Chesapeake and Delaware Canal Company" the trustee of the fund for establishing schools in this state shall be and he is hereby authorized and required to subscribe for the benefit and on behalf of the said fund to the amount of five thousand dollars in stock of the said company and that he pay the said sum of five thousand dollars in such instalments and in such manner as may be required by the commissioners or directors of said company out of any money belonging to the aforesaid fund not otherwise appropriated by law.

Trustee of school fund to subscribe five thousand dollars, and when, &c.

SECT. II. *And be it further enacted* That the trustee of the fund for establishing schools in this state for the time being be and he is hereby authorized and required annually and within the period of each and every year for the term of five years taking date from the time of the first subscription as authorized by the first section of this act to make a further subscription of five thousand dollars to the stock of the aforesaid Chesapeake and Delaware canal company in like manner for the benefit and on behalf of the fund for establishing schools in this state which several sums shall be paid from time to time as the same may become payable out of any money belonging to the said fund not otherwise appropriated: *Provided however*—

To make annual subscriptions for five years, &c.

SECT. III. *And be it further enacted* That in case the trustee of the fund for establishing schools in this state should be unable at any time during the five years aforesaid to obtain the full amount of stock authorized to be subscribed by this act or any part thereof on original subscription in that case he is authorized and by this act required to purchase the same or so much thereof as he may be unable to obtain on original subscription for the lowest price and on the best terms he can obtain.

To purchase if unable to obtain shares by subscription.

SECT. IV. *And be it enacted*, That all stock obtained by virtue of this act and as fast as the same may be subscribed for or purchased shall be placed to the credit of the fund for establishing schools in this state and all interest or dividends arising upon the said stock and which the trustee of the said fund for the time being is hereby authorized to receive from time to time as the same may become due and payable shall by him in like manner be placed to the credit of the said fund.

Stock obtained and profit to be put to credit of school fund.

SECT. V. *And be it enacted* That the trustee for the time being of the fund for establishing schools in this state is authorized at any election which may be held for president and directors or other officers of the Chesapeake and Delaware canal company to vote on any number of shares of the said stock belonging to the fund aforesaid either himself or by proxy according to the provisions of an act

Trustee to vote in person or by proxy.

Delaware. 5 Feb. 1823. of assembly entitled "An act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof" and the several supplements to the said act now in force.

III. Laws of Pennsylvania.

1. Act passed 19 February 1801.

Recorded in Law Book No. VII. page 246.

CHAPTER TWO THOUSAND ONE HUNDRED AND SEVENTY-FIVE.

Pennsylvania. 19 Feb. 1801. An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay and to authorize the clearing of obstructions in the river Susquehanna down to the Maryland line and for other purposes therein mentioned.

Whereas the General Assembly of Maryland by an act passed on the seventh day of December in the year of our Lord one thousand seven hundred and ninety-nine entitled "An Act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay" did enact that it should be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars in shares of two hundred dollars each share for the cutting said canal and perfecting the navigation thereof under the management of certain persons and at certain places in the said act for that purpose nominated and appointed and under the management of such persons and at such places in Delaware and Pennsylvania as should be appointed by acts of the legislature of the said states and by the said act did also provide and declare that the same should be of no force or effect until a law should be passed by the state of Delaware authorizing the cutting the canal aforesaid and until a law should be passed by the legislature of Pennsylvania declaring the river Susquehanna to be a highway and authorizing individuals or bodies corporate to remove obstructions therefrom at a period not exceeding three years from the first day of March eighteen hundred *And whereas* it will greatly promote the agricultural interests of this commonwealth to give to the inhabitants residing on or near the Susquehanna and the waters which empty themselves therein a choice of markets for their produce and an easy communication with and a cheap conveyance to the seaports of Maryland Delaware and Pennsylvania and the cutting and perfecting the said canal and clearing the bed of the Susquehanna will contribute in an important man-

Pennsylvania. 19 Feb. 1801.

ner to so desirable an end and will be highly beneficial to the citizens of the said states and is just and reasonable that the same should be carried into effect upon the principles of reciprocal advantage to the said states Therefore

Subscription for the canal between Chesapeake and Delaware bays

SECT. I. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same* That it shall be lawful to open books for receiving and entering subscriptions to the amount of five hundred thousand dollars in shares of two hundred dollars each share for the cutting the said canal and perfecting the navigation thereof under the management of Levi Hollingsworth John Hunn James C. Fisher Benjamin R. Morgan and Jonathan Bayard Smith at the city of Philadelphia and William Montgomery and John Haldiman at the borough of Lancaster and Robert Harris at the borough of Harrisburg in the county of Dauphin and Jesse Moore at the borough of Sunbury and town of Northumberland in the county of Northumberland and Andrew Henderson at the borough of Huntingdon in the county of Huntingdon and under the management of the persons and at the place appointed in the act of the legislature of Maryland passed on the seventh day of December in the year of our Lord one thousand seven hundred and ninety-nine entitled "An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay" or of such other persons or at such other places as may be appointed by any future act of the state of Maryland and of such persons and at such places as are appointed by an act of the legislature of the state of Delaware and the said books shall be opened on the first day of March one thousand eight hundred and two and shall continue open till the first day of March one thousand eight hundred and three and on the first day of May thereafter there shall be a general meeting of the subscribers at the town of Wilmington in the state of Delaware of which meeting notice shall be given in the manner prescribed by the aforesaid act of the legislature of the state of Maryland at which meeting the said managers and subscribers shall proceed and have the same power and shall do and perform all matters and things as are directed by the said act of the legislature of Maryland and not otherwise which said act shall be attached to and printed with this act *Provided* That if the states of Delaware and Maryland shall hereafter by acts of their legislatures limit and appoint any other and less space of time for the keeping open the said subscription books an earlier time for the first meeting of the subscribers in that case such less space

Pennsylvania. 19 Feb. 1801.

of time and such earlier time of meeting shall be substituted in the place of the times hereinbefore mentioned.

Incorporation of the subscribers.

SECT. II. *And be it further enacted by the authority aforesaid*, That in case one half of the said capital or a greater sum shall be subscribed as is directed in and by the said act of the legislature of Maryland herein referred to for that purpose the said subscribers and their heirs and assigns from the time of their said first meeting shall be and they are hereby declared to be incorporated by the name of the Chesapeake and Delaware Canal Company and may have perpetual succession and sue and be sued as such and shall have possess and enjoy all the rights powers and privileges shall choose their president and directors demand receive and enforce the payment of tolls and make dividends thereof and have all other powers vested in the said corporation and declared to appertain to the same in and by the aforesaid recited act of the legislature of Maryland in as full and ample a manner as if the said act was herein set forth fully and at large and enacted in the same words by this present legislature and shall derive no other powers under this act but such as are set forth in the said act of the legislature of Maryland or necessarily incident to a corporation.

Provision respectingpapers and records in the offices of Pennsylvania to be copied or delivered to the state of Delaware.

SECT. III. *And be it further enacted by the authority aforesaid* That it shall and may be lawful for an agent or agents hereafter to be appointed by the governor of the state of Delaware to have free access to the papers in the land-offices of this commonwealth and under the superintendence of the principals of said offices to transcribe and copy or procure to be transcribed and copied under the care and direction of the said agent or agents in one or more well bound books in folio all such warrants surveys or re-surveys patents grants and other original papers as may be found in the land-office or in any other public office of this commonwealth which in any wise relate to or make the title or part of the title of lands tenements or hereditaments within the state of Delaware and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices and also to remove all such original warrants surveys re-surveys patents grants and other papers in the said land-office or other offices of this state which in any wise relate to or make the title of lands tenements or hereditaments within the said state of Delaware and which can be removed and separated from the records and papers in the land-office or other offices of this state without injury to the commonwealth or citizens of Pennsylvania.

Pennsylvania. 19 Feb. 1801.

Regulations of the health laws as to vessels stopping in the state of Delaware.

SECT. IV. *And be it further enacted by the authority aforesaid* That so much of the act entitled "An act for establishing a health-office for securing the city and port of Philadelphia from the introduction of pestilential and contagious diseases" passed the eleventh day of April one thousand seven hundred and ninety-nine as subjects vessels with their cargoes and passengers with their bedding and clothing stopping and discharging at any port or ports in the United States to certain restrictions and regulations previous to their coming into the county of Philadelphia be and the same is hereby repealed so far as it respects the state of Delaware *Provided always* That the vessels goods and passengers with their bedding and clothing aforesaid coming from any port in the state of Delaware shall be subject to the same regulations restrictions and penalties as they are or would be if they had not stopped or been landed at any port or place in the United States.

The Susquehanna declared a highway and any persons mayremove its obstructions.

SECT. V. *And be it further enacted by the authority aforesaid,* That the river Susquehanna down to the Maryland line shall be and the same is hereby declared to be a public highway any act or law of this commonwealth to the contrary notwithstanding and it shall and may be lawful for the said Chesapeake and Delaware canal company or any other body corporate or individuals to remove all natural and artificial obstructions therefrom.

Repeal of a former act, so far as it prohibits the removal of obstructions in theSusquehanna.

SECT. VI. *And be it further enacted by the authority aforesaid* That so much of "An act to enable the governor of this commonwealth to appoint commissioners to ascertain the best route for and mode of effecting a communication between the waters of the Delaware and Chesapeake bays and appropriating a sum of money for opening the navigation of the river Susquehanna down to the Maryland line" passed the eleventh day of April one thousand seven hundred and ninety-nine as prevents any individual or company from removing obstructions out of the river Susquehanna between Wright's ferry and the Maryland line be and the same is hereby repealed.

III. 2. Act passed 25th March 1813.

Pennsylvania. 25 Mar., 1813.

CHAPTER THREE THOUSAND SEVEN HUNDRED AND TWENTY-EIGHT.

State Laws Vol. 6 page 59.

A supplement to an act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay.

Whereas during the time of war against the United States of America the completion of the work of the Ches-

Pennsylvania. 25 Mar., 1813.

apeake and Delaware canal would be greatly beneficial to the United States by forming the great link of an inland navigation of six or seven hundred miles and thereby establish a perfectly safe easy and rapid transportation of our armies and the munitions of war through the interior of the country and which would ever tend to operate as a cement to the union between the states *and whereas* the prosperity and the agricultural interest of the state of Maryland the commonwealth of Pennsylvania and the Delaware state are more deeply interested than their sister states in the useful work of opening a communication between the Chesapeake bay and the river Delaware by means of the Chesapeake and Delaware canal *therefore* in order to enable the president and directors of the said canal to prosecute and finish the important work of the said Chesapeake and Delaware canal

Governor authorized to subscribe 375 shares, provisionally.

SECT. I. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same* That if the United States shall subscribe seven hundred and fifty shares the state of Maryland two hundred and fifty shares the state of Delaware one hundred shares in the Chesapeake and Delaware canal company in such case the governor of this commonwealth is hereby authorized and directed to subscribe in behalf of this state three hundred and seventy-five shares in said company and the money necessary to be paid in consequence of such subscription shall be paid by this state and the governor of this commonwealth shall appoint a proper person to vote for president and directors of said company according to such number of shares and the treasurer of the commonwealth shall receive upon the said stock the proportion of the tolls which shall from time to time be due to the state for the shares aforesaid.

The fifth section of an act passed February 19th 1801, made part of this act.

SECT. II. *And be it further enacted by the authority aforesaid* That the fifth section of an act entitled "An act to incorporate a company for the purpose of cutting and making a canal between the river Delaware and the Chesapeake bay and to authorize the clearing of obstructions in the river Susquehanna down to the Maryland line and for other purposes" passed the nineteenth day of February one thousand eight hundred and one shall be valid and become part of this act as fully and effectually as if the same was hereby enacted at full length.

This act to take effect in certain cases.

SECT. III. *And be it further enacted by the authority aforesaid* That this act shall not take effect unless the legislature of Maryland shall pass or shall have passed a law declaring that in consideration of the act of the legislature

of Pennsylvania incorporating said canal company the river Susquehanna from the Maryland line to the bay of Chesapeake shall forever hereafter be a highway and that individuals or bodies corporate may at all times remove obstructions therein.

Pennsylvania. 25 Mar., 1813.

SECT. IV. *And be it further enacted by the authority aforesaid* That it shall be the duty of the governor of this state to send a copy of this act and of the fifth section of the act incorporating the Delaware and Chesapeake canal company passed nineteenth February one thousand eight hundred and one to the President of the United States with a request that he will lay the same before Congress and a copy to the governor of the state of Maryland and also a copy to the governor of the state of Delaware with a request that they will lay the same before their respective legislatures.

The governor to send copies of this act, &c., to sundry persons.

III. 3. Extract from an act passed 28 March 1823.

Pennsylvania. 28 Mar., 1823.

ARTICLE TWENTY-FIFTH.

An act to extend the charter of the Philadelphia Bank.

The said Philadelphia Bank shall subscribe for five hundred shares in the stock of the Chesapeake and Delaware Canal Company to be paid for by said Bank at such times and in such instalments as may be required by the said Chesapeake and Delaware canal company the dividends upon which shares shall be received by the said bank for and during the period of fifteen years from the date of the said subscription and at the expiration of the said period the said shares shall be transferred to and become the exclusive property of this commonwealth *Provided* that the bank shall not be required to pay any part of the above subscription until the company shall have expended and paid subsequent to the passage of this act two hundred thousand dollars in making the said canal *And provided further* that if the bank should not be called upon within four years after the passage of this act to invest the above sum or any part thereof in the stock of the Delaware and Chesapeake canal that it shall be the duty of the president and directors of the said bank to forward at that time the amount that would have been paid at the rate of eight per cent. on the dividends or net profits on the first Mondays of November in every year thereafter *Provided* That said stock shall not be chargeable with any debts of the company heretofore contracted.

Philadelphia bank shall subscribe 500 shares in the Chesapeake and Delaware canal company and receive the dividends thereon for a certain time,

but need not pay any of the said subscription until 200,000 dollars expended,

nor shall it go to discharge old debts.

Delaware. Feb. 9, 1827.

Act passed at Dover, February 9, 1827.

State Laws, Vol. 1, page 586.

Summit Bridge

An act regulating the travelling over the Summit Bridge erected over the Chesapeake and Delaware Canal on the upper State road near the Buck Tavern in New Castle county, belonging to the Chesapeake and Delaware Canal Company.

Passed on right hand side & in a walk—penalty on non compliance.

SECT. I. Every person passing said bridge, either with stage, wagon, cart, coach, gig, chaise or other carriage of burden or pleasure, and all persons riding, driving or leading horses, mules or cattle of any description, shall pass the same on the right hand side thereof in a walk; and if any person or persons shall intentionally and wilfully offend against this provision, every person, for such offence, shall forfeit and pay a sum not exceeding five dollars to be recovered before any Justice of the Peace in and for New Castle county and applied, one moiety thereof to the person suing, and the other moiety to the Poor of New Castle county and pay to the Treasurer thereof. And it shall be the duty of the said company to put up an index board at each end of said bridge, explanatory of the aforesaid provisions; and if any person or persons shall wilfully, or without orders of the said company, pull down, break or destroy, with intent to injure, any part or parts of the said bridge or of any abutment or other property of the said company appurtenant to or erected or made for the use and convenience of the said bridge, or persons employed in conducting the business thereof, or shall wilfully, without the orders and consent of the company or any person or persons authorized by them, obliterate, deface or destroy the letters, figures or other characters affixed or to be affixed in any place or places for the information of travellers, or shall wilfully and maliciously obstruct or impede the passage on or over the said bridge, or any part or parts thereof, he, she or they so offending and each of them, shall forfeit and pay to the said company the sum of thirty dollars to be sued for and recovered before any Justice of the Peace in like manner, and subject to the same rules and regulations, as debts under fifty dollars may be sued for and recovered; and he, she or they so offending may and shall remain liable to actions at the suit of the said company for further damages for such torts, if the said sum or sums herein mentioned be not sufficient to repair and satisfy such damages.

index-board.

penalty for injury to bridge, &c.

Lamps

SECT. II. The said company shall for the safety of travellers, place or cause to be placed, at the expense of said company, four lamps, one at each end of said bridge and two at equal distances between them; which lamps shall be

lighted every evening within one-half hour after the setting of the sun and continued lighted until day-light in the morning of the ensuing day; and the company aforesaid or their agent, for every night the said lamps shall not be lighted, shall forfeit and pay the sum of ten dollars to be recovered as debts of the same amount are recoverable by the laws of this State and applied, as other fines and forfeitures under this Act are directed to be.

Delaware, Feb. 9, 1827.

penalty.

Act passed February 11, 1829.

State Laws, Vol. 1, page 430.

Delaware, Feb. 11, 1829.

A further supplement to an act, entitled, "An Act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof."

SECT. I. The President and Directors of the said company shall have power to enact rules and regulations for the good government of the said canal, its harbours and basins and other appertenances, and for the general convenience of vessels navigating the same, and to authorise and empower their agents and officers to enforce conformity to all such rules and regulations against any vessels violating the same, or the persons in command or direction thereof; provided such rules and regulations shall in no wise contravene the constitution or laws of this State.

Rules for the protection of the Canal, &c.

SECT. II. If any person commanding or directing a vessel upon the said canal, shall wilfully or negligently obstruct or impede the navigation thereof, or if any person shall wantonly or maliciously injure the locks, bridges, culverts, sluices, banks or other appertenances of said canal, every person so offending shall be deemed guilty of misdemeanor, and upon conviction thereof, shall forfeit and pay to the State a fine not less than fifteen nor more than fifty dollars.

Penalty for injuries.

Act passed March 14, 1829—(copy of Maryland Bill, No. 180—deposited in and belonging to the office of the Court of Appeals for the Western Shore of Maryland.)

Maryland, Mar. 14, 1829.

An additional supplement to an Act, entitled, "An Act to incorporate a company for the purpose of making and cutting a Canal between the River Delaware and the Chesapeake Bay."

SECT. I. *Be it enacted by the General Assembly of Maryland*, That it shall and may be lawful for the President and Directors of the Chesapeake and Delaware Canal Company from time to time to make and enact rules and regulations for the good government of the said canal and the harbours, basins and other appertenances thereof, and

The President and Directors may make rules and regulations for the government of the canal.

Maryland, Mar. 14, 1829.

for protecting the same from injury, and for promoting the general security and convenience of the vessels which may navigate the same; and that it shall and may be lawful for the said President and Directors to require and enforce by their officers and agents due conformity to such rules and regulations.

and may enforce such rules.

SECT. II. *And be it enacted*, That if any person shall obstruct the navigation of the said canal, its basins, harbours, or other appertenances or shall otherwise injure, deface or destroy any of the banks, locks, bridges or other appertenances thereof or shall break any of the rules and regulations adopted by the said President and Directors for the good government of the said canal, he shall be liable to an action by the said Chesapeake and Delaware Canal Company, or by any other persons aggrieved for the damages which they may sustain.

Persons obstructing the navigation or injuring the works shall be liable to an action for damages.

The President and Directors may make rules for the government of vessels navigating the canal, and enforce conformity thereto.

SECT. III. *And be it enacted*, That for securing the more convenient and safe navigation of Broad and Back Creeks into which the said canal enters, it shall and may be lawful for the said President and Directors to enact from time to time such rules and regulations for the government of vessels navigating the same as may by them be judged necessary and proper for the purposes aforesaid, and to enforce conformity thereto in the manner herein before specified.

SECT. IV. *And whereas it has been represented to this General Assembly*, That it will hereafter be required in order to the more convenient approach to the said canal that Broad and Back Creeks should be deepened and the channels thereof be made wider and more direct by artificial means, and that injury may be done to the said Canal Company by permitting encroachments upon the said Creeks, therefore, *Be it enacted*,

The Company authorized to make alterations and improvements in Back & Broad Creeks.

That it shall and may be lawful for the said Chesapeake and Delaware Canal Company to make such alterations and improvements in the bed, courses and channels of the said Creeks as they shall judge necessary for the more convenient approach to the said canal, and that any and every encroachment upon the said water courses of the said Creeks or either of them shall be and the same is hereby declared to be a public and common nuisance against the people of this state and may lawfully be abated as such;

Proviso.

provided that it shall still be lawful for the said Canal Company to erect and construct along the said Creeks such tow-paths, bridges or other improvements so as not to obstruct the approach and departure of vessels to and from the mouth of the canal.

Maryland. Mar. 14, 1829.

Provision for the condemnation of land, in certain cases.

SECT. V. *And whereas* it may be necessary for the effectuation of the objects contemplated by this law, that provision should be made for the condemnation of a quantity of land for that purpose, *Be it enacted*, That it shall and may be lawful for the said President and Directors, or a majority of them to agree with the owners of any land within this state which may be necessary for the purpose, for the purchase or use and occupation thereof, and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the State or Country, on application to a Justice of the County in which such land shall be, the said Justice of the Peace shall issue his warrant under his hand to the Sheriff of the County, to summon a Jury of eighteen inhabitants of his county, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant not less than ten nor more than twenty days thereafter, and the Sheriff upon receiving the said warrant shall forthwith summon the said Jury and when met shall administer an oath or affirmation to every Jury-man who shall appear, being not less than twelve in number, that he will faithfully, justly and impartially value the land, and all damages the owner thereof shall sustain by cutting the canal through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, nor any person grieve for malice, hatred or ill-will, and the inquisition thereupon taken shall be signed by the Sheriff and some twelve or more of the Jury, and returned by the Sheriff to the Clerk of his County Court, and unless good cause be shown against the said inquisition it shall be affirmed by the Court and recorded, but if the said inquisition should be set aside, or if from any cause no inquisition shall be returned to such Court within a reasonable time, the said Court may at its discretion as often as may be necessary, direct another inquisition to be taken in the manner above prescribed, and upon every such valuation the Jury is hereby directed to describe and ascertain the bounds of the land by them valued, and the quantity and duration of the interest and estate in the same acquired by the said Company, for its use, and their valuation shall be conclusive on all persons, and shall be paid for by the President and Directors, to the owner of the land or his legal representatives, and on payment thereof, the said Company shall be seized of such land as of an absolute Estate in perpetuity, or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use or occupation, as shall be acquired and described as aforesaid, as if conveyed by the owner to them.

Maryland, Feb. 24, 1831.

Act passed at Annapolis, Feb. 24, 1831.

Bill, No. 101.

An additional supplement to the act, entitled, "An act to incorporate a Company for the purpose of cutting and making a Canal, between the River Delaware and the Chesapeake Bay."

Preamble.

Whereas the President and Directors of the Chesapeake and Delaware Canal Company, have by their Memorials set forth, that some time in the month of August, 1824, they purchased of a certain Thomas Bittle, about thirty six acres of land, lying on Broad Creek, and Back Creek in Cecil county; and received from him a deed therefor; but that doubts are entertained whether the said company were not restrained by the thirteenth section of the original act to which this is an additional supplement, to the quantity of one acre; and have prayed for the passage of a law to remove the same: Therefore,

Title to land purchased of Thos. Bittle, confirmed.

SECT. I. *Be it enacted by the General Assembly of Maryland*, That the title of the said Chesapeake and Delaware Canal Company, to the said land so purchased from the said Thomas Bittle, and by him conveyed to them, shall be to all intents and purposes, as good and available either at law or in equity, as if the company had not been restrained by the said thirteenth section. *Provided always*, that nothing herein contained shall be construed in any manner to affect the right of any person or persons whatsoever.

Proviso.

Land not to be used except for certain uses.

SECT. II. *And be it enacted*, That the said land shall not be used for any purpose whatever, except for stables, offices and buildings, essential to the objects for which the said Canal Company was incorporated. *Provided always*, that nothing in this section shall be so construed as to prevent said Canal Company from selling any part of said land which they may deem unnecessary for the objects for which said Canal Company was incorporated.

Proviso.

Delaware, Jan. 31, 1832.

Act passed at Dover, January 31, 1832.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the Chesapeake Bay, and the Bay or River Delaware or the waters thereof."

Preamble.

Whereas, the Chesapeake and Delaware Canal Company, in the formation of a Canal, have found it expedient and necessary to overflow certain lands within the embankments, and limits of said Company, Therefore,

Delaware. Jan. 31 1832.

Company's land within the embankments or used as reservoirs, exempted from taxation by any marsh company.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passage of this Act, the lands belonging to the Chesapeake and Delaware Canal Company within the embankments of the canal of said company, or used as reservoirs for the same, shall and are hereby declared to be exempted from taxation, by any marsh company during the time they are overflowed with water and occupied as aforesaid.

The presentation of false manifests or false statements of tolls subject to penalty—

penalty for so doing.

SECT. II. *And be it enacted*, That in case any master, shipper or agent shall fraudulently present to the Collector of Tolls or other Agent of the Canal Company, a false manifest, or account of cargo of any vessel or boat about passing through the canal, or give a false statement of the Tolls thereon, or otherwise attempt to defraud in the said Tolls, on conviction thereof before any Justice of the Peace for New Castle County, he or they so convicted, after paying to the Canal Company the toll due, and costs of ascertaining the same, shall forfeit and pay double the amount of tolls so charged, on which the fraud had been attempted: one moiety of said forfeiture shall enure to the person giving information and prosecuting the offender to conviction, the other moiety to enure to the State of Delaware.

Maryland, Dec Sess. of 1831.

Act passed at Annapolis, Dec. Session, 1831.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay.

Master of a vessel presenting false manifest or statement of tolls subject to penalty—

the penalty.

Proviso.

SECT. I. *Be it enacted by the General Assembly of Maryland*, That if any master or agent of any vessel or boat shall fraudulently present to the Collector of Tolls or any other Agent of the Chesapeake and Delaware Canal Company, a false manifest or account of cargo of any vessel or boat about passing through the canal or give a false statement of the toll thereon, or otherwise attempt to defraud in the said tolls, on conviction thereof before any Justice of the Peace of this State, he shall incur the penalty of twenty dollars, to be recovered before some Justice of the Peace, as small debts are recovered: one half to the informer, giving information and prosecuting the offender to conviction, and the other half to the State. *Provided*, that the party aggrieved by the said judgment may appeal to the County Court of the county in which the said judgment may have been rendered to be true; as other

Maryland, Feb. 24, 1831.

Act passed at Annapolis, Feb. 24, 1831.

Bill, No. 101.

An additional supplement to the act, entitled, "An act to incorporate a Company for the purpose of cutting and making a Canal, between the River Delaware and the Chesapeake Bay."

Preamble.

Whereas the President and Directors of the Chesapeake and Delaware Canal Company, have by their Memorials set forth, that some time in the month of August, 1824, they purchased of a certain Thomas Bittle, about thirty six acres of land, lying on Broad Creek, and Back Creek in Cecil county; and received from him a deed therefor; but that doubts are entertained whether the said company were not restrained by the thirteenth section of the original act to which this is an additional supplement, to the quantity of one acre; and have prayed for the passage of a law to remove the same: Therefore,

Title to land purchased of Thos. Bittle, confirmed.

SECT. I. *Be it enacted by the General Assembly of Maryland*, That the title of the said Chesapeake and Delaware Canal Company, to the said land so purchased from the said Thomas Bittle, and by him conveyed to them, shall be to all intents and purposes, as good and available either at law or in equity, as if the company had not been restrained by the said thirteenth section. *Provided always*, that nothing herein contained shall be construed in any manner to affect the right of any person or persons whatsoever.

Proviso.

Land not to be used except for certain uses.

SECT. II. *And be it enacted*, That the said land shall not be used for any purpose whatever, except for stables, offices and buildings, essential to the objects for which the said Canal Company was incorporated. *Provided always*, that nothing in this section shall be so construed as to prevent said Canal Company from selling any part of said land which they may deem unnecessary for the objects for which said Canal Company was incorporated.

Proviso.

Delaware, Jan. 31, 1832.

Act passed at Dover, January 31, 1832.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the Chesapeake Bay, and the Bay or River Delaware or the waters thereof."

Preamble.

Whereas, the Chesapeake and Delaware Canal Company, in the formation of a Canal, have found it expedient and necessary to overflow certain lands within the embankments, and limits of said Company, Therefore,

Delaware. Jan. 31 1832.

Company's land within the embankments or used as reservoirs, exempted from taxation by any marsh company.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That from and after the passage of this Act, the lands belonging to the Chesapeake and Delaware Canal Company within the embankments of the canal of said company, or used as reservoirs for the same, shall and are hereby declared to be exempted from taxation, by any marsh company during the time they are overflowed with water and occupied as aforesaid.

The presentation of false manifests or false statements of tolls subject to penalty—

penalty for so doing.

SECT. II. *And be it enacted*, That in case any master, shipper or agent shall fraudulently present to the Collector of Tolls or other Agent of the Canal Company, a false manifest, or account of cargo of any vessel or boat about passing through the canal, or give a false statement of the Tolls thereon, or otherwise attempt to defraud in the said Tolls, on conviction thereof before any Justice of the Peace for New Castle County, he or they so convicted, after paying to the Canal Company the toll due, and costs of ascertaining the same, shall forfeit and pay double the amount of tolls so charged, on which the fraud had been attempted: one moiety of said forfeiture shall enure to the person giving information and prosecuting the offender to conviction, the other moiety to enure to the State of Delaware.

Maryland, Dec Sess. of 1831.

Act passed at Annapolis, Dec. Session, 1831.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay.

Master of a vessel presenting false manifest or statement of tolls subject to penalty—

the penalty.

Proviso.

SECT. I. *Be it enacted by the General Assembly of Maryland*, That if any master or agent of any vessel or boat shall fraudulently present to the Collector of Tolls or any other Agent of the Chesapeake and Delaware Canal Company, a false manifest or account of cargo of any vessel or boat about passing through the canal or give a false statement of the toll thereon, or otherwise attempt to defraud in the said tolls, on conviction thereof before any Justice of the Peace of this State, he shall incur the penalty of twenty dollars, to be recovered before some Justice of the Peace, as small debts are recovered: one half to the informer, giving information and prosecuting the offender to conviction, and the other half to the State. *Provided*, that the party aggrieved by the said judgment may appeal to the County Court of the county in which the said judgment may have been rendered to be true; as other

Maryland, Dec Sess. of 1831.

cases of appeals and from judgment of Justices of the Peace in this State are now tried.—

Company liable to a penalty for improper or illegal detention of vessels.—

SECT. II. *And be it enacted*, That if any vessel or boat shall be improperly or illegally detained under the provisions of this Act, it shall and may be lawful for the master or agent of any such vessel or boat, to recover in action of debt, before any Justice of the Peace in this State, of and from the Collector of toll or other Agent of said Canal Company, the sum of five dollars per day for each and every day, his vessel or boat may be detained.

Penalty.—

Pennsylvania, May 7, 1832.

Act passed at Harrisburg, May 7, 1832.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay, and to authorise the clearing of obstructions in the River Susquehanna down to the Maryland line, and for other purposes therein mentioned.—

Master of a vessel presenting false manifest or statement of tolls subject to penalty.

SECT. I. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That in case any master shipper or agent shall fraudulently present to the Collector of tolls or other Agent of the Chesapeake and Delaware Canal Company, a false manifest or account of cargo of any vessel or boat about passing through the canal, or give a false statement of the toll thereon, or otherwise attempt to defraud in the said tolls, on conviction thereof before any Magistrate, Alderman or Justice of the Peace, in this State, he or they so convicted, after paying to the Canal Company the toll due and cost of ascertaining the same, shall forfeit and pay double the amount of tolls so charged on which the fraud had been attempted: one moiety of said forfeiture shall enure to the person giving information and prosecuting the offender to conviction, and the other moiety to enure to the State of Pennsylvania.—

Penalty.

Delaware, June 15, 1836.

Act passed at Dover, June 15, 1836.

Vol. 3, page 170, chap. 78.

Pamphlet Laws, page 26, chap. 13.

A further additional supplement to an Act, entitled, "An Act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake bay and bay or river Delaware, or the waters thereof."

Preamble.

Whereas, in pursuance of an agreement by and between the Chesapeake and Delaware Canal Company and John

Delaware. June 15, 1836.

Randel, junior, and the other creditors and loan-holders of said company, this Legislature hath been requested by the said parties to enact the following provisions: *And whereas*, the public interest will be best consulted by the settlement of all controversies between the said parties on just and equitable principles: Therefore,

Power to fund the debts of the company given.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for the Chesapeake and Delaware Canal Company to fund all the debts now due by said company to creditors whose debts are secured, or supposed to be so, by judgments or mortgages, or are evidenced by certificates issued by said company, or due in any other way, or for any cause or contract whatsoever, including the judgment obtained by John Randel, junior, against the said company in the Superior Court of the State of Delaware, for two hundred and twenty-six thousand eight hundred and eighty-five dollars, eighty-four cents, with lawful interest from the twenty-fifth day of January eighteen hundred and thirty-four.

Certificates of debt to be issued to the several creditors—

SECT II. *And be it enacted*, for the purpose of so funding their said debts, it shall be lawful for the said Chesapeake and Delaware Canal Company to grant and issue to each and every of its said creditors a certificate of debt for the amount due to such creditor, which amount shall be ascertained in each case by adding to the principal sum all arrearages of interest now due, and all interest to become due, at the rate of six per cent. per annum up to the first day of July, eighteen hundred and thirty-six, except in the case of the said John Randel, junior, whose certificate of debt, or the aggregate of whose certificates, if he shall prefer to have the amount subdivided into several certificates shall amount to the sum of two hundred and twenty-nine thousand, eight hundred and twenty dollars, which shall be taken to be the amount due to him exclusive of costs, as of the said first day of July, eighteen hundred and thirty-six, after deducting all claims of the company against him, and shall after payment of costs as agreed by the parties, be received by him or his assigns in certificates as aforesaid, in lieu of all demands against the said company, and shall be considered as a final and absolute adjustment of all pending suits, causes of action, and matters in variance between the said John Randel, junior, and the said Chesapeake and Delaware Canal Company, or between him and the directors, agents, committees, creditors, garnishees or any of them of said company, and every other person having acted on behalf of said company.

certificates to be issued to John Randel, jun.—

the amount thereof;

to be conclusive, &c.

Maryland, Dec Sess. of 1831.

cases of appeals and from judgment of Justices of the Peace in this State are now tried.—

Company liable to a penalty for improper or illegal detention of vessels.—

SECT. II. *And be it enacted*, That if any vessel or boat shall be improperly or illegally detained under the provisions of this Act, it shall and may be lawful for the master or agent of any such vessel or boat, to recover in action of debt, before any Justice of the Peace in this State, of and from the Collector of toll or other Agent of said Canal Company, the sum of five dollars per day for each and every day, his vessel or boat may be detained.

Penalty.—

Pennsylvania, May 7, 1832.

Act passed at Harrisburg, May 7, 1832.

A further supplement to an act, entitled, "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay, and to authorise the clearing of obstructions in the River Susquehanna down to the Maryland line, and for other purposes therein mentioned.—

Master of a vessel presenting false manifest or statement of tolls subject to penalty.

SECT. I. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That in case any master shipper or agent shall fraudulently present to the Collector of tolls or other Agent of the Chesapeake and Delaware Canal Company, a false manifest or account of cargo of any vessel or boat about passing through the canal, or give a false statement of the toll thereon, or otherwise attempt to defraud in the said tolls, on conviction thereof before any Magistrate, Alderman or Justice of the Peace, in this State, he or they so convicted, after paying to the Canal Company the toll due and cost of ascertaining the same, shall forfeit and pay double the amount of tolls so charged on which the fraud had been attempted: one moiety of said forfeiture shall enure to the person giving information and prosecuting the offender to conviction, and the other moiety to enure to the State of Pennsylvania.—

Penalty.

Delaware, June 15, 1836.

Act passed at Dover, June 15, 1836.

Vol. 3, page 170, chap. 78.

Pamphlet Laws, page 26, chap. 13.

A further additional supplement to an Act, entitled, "An Act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake bay and bay or river Delaware, or the waters thereof."

Preamble.

Whereas, in pursuance of an agreement by and between the Chesapeake and Delaware Canal Company and John

Delaware. June 15, 1836.

Randel, junior, and the other creditors and loan-holders of said company, this Legislature hath been requested by the said parties to enact the following provisions: *And whereas*, the public interest will be best consulted by the settlement of all controversies between the said parties on just and equitable principles: Therefore,

Power to fund the debts of the company given.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That it shall and may be lawful for the Chesapeake and Delaware Canal Company to fund all the debts now due by said company to creditors whose debts are secured, or supposed to be so, by judgments or mortgages, or are evidenced by certificates issued by said company, or due in any other way, or for any cause or contract whatsoever, including the judgment obtained by John Randel, junior, against the said company in the Superior Court of the State of Delaware, for two hundred and twenty-six thousand eight hundred and eighty-five dollars, eighty-four cents, with lawful interest from the twenty-fifth day of January eighteen hundred and thirty-four.

Certificates of debt to be issued to the several creditors—

SECT. II. *And be it enacted*, for the purpose of so funding their said debts, it shall be lawful for the said Chesapeake and Delaware Canal Company to grant and issue to each and every of its said creditors a certificate of debt for the amount due to such creditor, which amount shall be ascertained in each case by adding to the principal sum all arrearages of interest now due, and all interest to become due, at the rate of six per cent. per annum up to the first day of July, eighteen hundred and thirty-six, except in the case of the said John Randel, junior, whose certificate of debt, or the aggregate of whose certificates, if he shall prefer to have the amount subdivided into several certificates shall amount to the sum of two hundred and twenty-nine thousand, eight hundred and twenty dollars, which shall be taken to be the amount due to him exclusive of costs, as of the said first day of July, eighteen hundred and thirty-six, after deducting all claims of the company against him, and shall after payment of costs as agreed by the parties, be received by him or his assigns in certificates as aforesaid, in lieu of all demands against the said company, and shall be considered as a final and absolute adjustment of all pending suits, causes of action, and matters in variance between the said John Randel, junior, and the said Chesapeake and Delaware Canal Company, or between him and the directors, agents, committees, creditors, garnishees or any of them of said company, and every other person having acted on behalf of said company.

certificates to be issued to John Randel, jun.—

the amount thereof;

to be conclusive, &c.

Delaware. June 15, 1836.

Certificates to be good evidence of debt;

and bear interest—

irredeemable for 20 years—except as to J. Randel, jr.

convertible into stock;

Randel's debt preferred as to payment of interest—

interest to be paid before dividends.

SECT. III. *And be it enacted*, That the said certificates and every of them shall, at all times, be good and valid evidences of debt against the said company, and shall be deemed and taken so to be in all courts of justice in this commonwealth and elsewhere, as fully as if the debts had been created and the certificates provided for in the original charter of the said company, and each of the said certificates and the whole of the said funded debt or debts which they represent, shall bear interest at the rate of six per cent. per annum, payable at the office of the said company in Philadelphia, on the first days of January and July in each and every year, and every portion of the said funded debt and the certificates representing the same, except the said portion of the said John Randel, junior, shall be irredeemable by the said company until the expiration of twenty years from the said first day of July eighteen hundred and thirty-six; and shall, during that period, be convertible into capital stock of the said company at the will of the holder; and if there shall, at any time, be a deficiency in the means of the said company to pay the whole of the said semi-annual interest upon the whole of the said funded debt, then and in such case the holders of the certificates to be issued for the said John Randel, junior's portion, of two hundred and twenty-nine thousand eight hundred and twenty dollars shall be entitled to be paid the full interest due upon each and every of their said certificates, so far as the means of the said company may go, before it shall be lawful for the said company to pay any portion of the interest which may be due upon any other part of its said funded debt, nor shall it ever be lawful for the said company to pay any dividend of profits to the stockholders or any of them, until all the interest due upon the whole of its said funded debt shall have been paid or set apart or provided for.

The funded debt of J. Randel, jun. redeemable—when,

by whom,

in what manner.

SECT. IV. *And be it enacted*, That the said debt of two hundred and twenty-nine thousand, eight hundred and twenty dollars, so as aforesaid, to be funded on account of the said John Randel, junior, shall be redeemable at any time within five years from the first day of July, eighteen hundred and thirty-six, and it shall be lawful for the said company or for any person or persons by them employed and empowered upon such terms as may be mutually agreed upon, to redeem the said debt, or any portion thereof, from time to time, at any time within the said period, at par: and for that purpose to give notice of their intention so to do, of not less than thirty, nor more than sixty days, in two daily newspapers published in the City of Philadelphia, in two published in the City of Baltimore, and in one pub-

lished in the State of Delaware; and the said redemption shall be by payments to be made at the office of the company in the City of Philadelphia upon presentment and surrender to the company of the certificate or certificates of the portion to be redeemed. And all interests and right to claim the same by any holder of any portion of the said John Randall, junior's funded debt, who shall fail to present his certificate as aforesaid, or shall refuse or neglect to accept payment, shall cease from, and immediately after the day appointed for redemption, and in lieu of the notice aforesaid, a personal notice shall be deemed sufficient, or an advertisement in two of the daily newspapers of the place in which the holder of the portion or portions intended to be redeemed shall reside. *Provided, however*, that this right of redemption shall always be exercised only at the time of a semi-annual payment of interest falling due, *and provided further*, that the said John Randel, junior, or any of the holders by assignment or transfer of any part of the said debt so funded for his benefit shall not be required to receive at one time a less sum than ten thousand dollars, unless the portion or share so to be redeemed, and which may be held at any time by the said John Randel, junior, or by any other person by assignment or transfer, shall be less than that sum.

Delaware, June 15, 1836.

Proviso.

SECT. V. *And be it enacted*, That if the said debt of the said John Randel, junior, and his assigns, be not redeemed within the said period of five years from the first day of July, eighteen hundred and thirty-six, it shall and may be lawful for the holder of any portion thereof, at any time after that period, to proceed, by way of distress and sale, to sell the said canal and any property belonging to the said company wheresoever the same may be found, or so much thereof as shall be necessary to redeem the portion of debt held by him; the proceeds of sale to be first applied to the payment of said debt: *Provided*, that no such proceeding shall be instituted until after forty days' written notice to the President and Directors of the said company, and a like notice published in at least two newspapers in the City of Philadelphia, and at least two newspapers in the City of Baltimore. And the said debt so funded for the benefit of the said John Randel, junior, and any and every portion thereof, shall have priority and precedence over any and every other debt, claim, mortgage, judgment and incumbrance, whatsoever and wheresoever, of the said company, now or hereafter made, created, or entered into, and interest at the rate of six per cent. per annum shall be payable, and paid semi-annually as hereinbefore provided for, upon the said sum and every part thereof so funded

If the debt of Randel be not redeemed;

remedy by distress and sale given;

after notice given—

His debt preferred,

and interest thereon;

Delaware. June 15, 1836.

for the benefit of the said John Randel, junior, in whosesoever hands it may be, in preference to all other creditors whatsoever; and at the expiration of the said term of five years the whole of the debt due to the said John Randel, junior, or any holder of any portion thereof, shall be paid in preference to any other creditor or creditors whatsoever as aforesaid, and if not then redeemed, then no other debts, the funding of which is hereby intended to be provided for, and no other loan to be created or raised under this act shall be redeemed in whole or in part, until the whole of the said funded debt of the said John Randel, junior, be first paid and redeemed; and if to the said company it shall seem good to redeem the said debt as hereinbefore provided for by or through any other person or persons, they shall have the power, and it shall be lawful for them to create and give to such other person or persons, a certificate or certificates of stock for such amount as they may agree upon, to be made irredeemable as long as they may deem proper, and to have such priority and security as are herein given to the said Randel funded debt; or such other as to the said parties may seem best; and the holders of the redeemed certificates shall, if required so to do, transfer them to such persons as the board of directors of said company may indicate.

payment thereof preferred;

company may redeem by other persons how,

and the effect thereof.

Form of the certificates;

SECT. VI. *And be it enacted*, That the certificates to be issued by the said Chesapeake and Delaware Canal Company for the purposes aforesaid shall be in such form as may by them be deemed best, and most in accordance with usage in similar cases; but the certificate or certificates to be issued for the benefit of the said John Randel, junior, and all the certificates, by whomsoever holden, which shall represent any portion of that debt, shall contain upon the face the words "*Entitled to priority of payment and transferrable;*" and all the said certificates of either or any description so to be issued, shall be transferrable in whole or in part by the holder in person, or by attorney duly constituted, upon the books of the said company, in presence of its president or secretary, and upon the surrender of the old certificates in lieu of which new ones to the proper amount shall be issued.

transferable.

Holders of the Randel certificates may surrender the same— when,

and take new certificates, irredeemable, &c.

SECT. VII. *And be it enacted*, That any holder of a certificate for any portion of the debt so as aforesaid to be secured to the said John Randel, junior, shall have the right, at any time within five years from the said first day of July, eighteen hundred and thirty-six, and while the same remains unredeemed as aforesaid, to waive his right of priority of payment as hereinbefore provided for, by surrendering to the said company, his said certificate of preferred debt, and taking out in lieu thereof, another cer-

tificate of the same description with those hereinbefore provided for the other creditors of the said company whose debts are to be funded: in which case the new certificates thus to be received shall, like the said other certificates of other creditors, be irredeemable within twenty years from the said first day of July, eighteen hundred and thirty six, and shall at any time within that period be convertible into capital stock of the company at the will of the holder: *Provided*, that the right given by this section shall not exist after notice shall have been given by the company in manner hereinbefore provided for, of their determination to redeem any such certificate or portion of said preferred debt, nor shall the certificate or certificates to which said notice shall apply, be thenceforward transferrable until the company shall have neglected to redeem the debt thereby secured in pursuance of such notice. But if the said company shall refuse or neglect to redeem at the appointed time, then the transferability of such certificate or certificates shall revive from the period of such refusal or neglect, and be in full force, as if no such notice had been given.

Delaware, June 15, 1836.

Proviso.

SECT. VIII. *And be it enacted*, That all the other creditors and holders of certificates herein provided for, except the said John Randel, junior, and those who may hold the certificates of his preferred debt, shall be entitled to a proportional share without any priority among themselves of the nett proceeds arising from the tolls after deducting all expenditures to be authorized by the company or board of directors or the stockholders according to the charter to an extent sufficient to cover at all times the interest due on their said certificates; subject always to the established priority and precedence secured as aforesaid to the amount of the debt to be funded for the benefit of the said John Randel, junior, and his assigns. And it shall not be lawful for the said company to make or declare any dividend to or amongst stockholders or any of them, at any time while any portion of such interest shall remain unpaid and unprovided for; nor shall interest be paid to any person now a loanholder, or holder of a certificate for money borrowed, whether secured by mortgage, or judgment, until such person shall have surrendered or offered to surrender such existing certificate, and have taken out, or offered to take out and receive, the new certifiates herein provided for.

Tolls, how and in what proportions applicable to the other creditors

subject to the priority of the Randel debt.

No dividends to be made until all interest paid; nor shall interest be paid to loanholders until, &c.

SECT. IX. *And be it enacted*, That all judgments, vouchers of, or bonds for debts or claims shall be mutually satisfied, extinguished, or delivered up cotemporaneously with the delivery by the said company of certificates of funded debt as aforesaid, save and except that while the debt of the said John Randel, junior, remains unsatisfied,

Judgments and other evidences of debt to be delivered up, &c. exception as to Randel—

Delaware, June 15, 1836.

or the certificates representing it unredeemed, his said judgment in the superior court of the State of Delaware shall be and remain as a collateral security for the amount of the said debt and said preferred certificates, and of the priority herein given; but the same shall be vacated, if required, whenever the said preferred debt is redeemed, or whenever all the other creditors shall have taken out certificates as herein provided for. But in the mean time an entry shall be made on the record of the said judgment by the clerk of the said court, stating that it is held and continued alive for the purposes expressed in this section; and if the said company shall, through the medium of other persons, as hereinbefore provided, cause the said preferred debt to be redeemed, and shall create a new set of certificates, or negotiate a loan for said purpose, the said judgment shall remain as a security for such new loanholders, if the said company shall so contract with them; and in such case it shall be the duty of the said John Randel, junior, to execute such transfers, and agree to such entries upon the said record, and of the said clerk to make such entries as may be necessary and proper to effectuate this purpose.

His judgment to remain as a collateral security.

An entry to be made on the record of the judgment.

May borrow money—

SECT. X. *And be it enacted*, That the said Chesapeake and Delaware Canal Company shall have right and power to borrow, from time to time, all such further sums of money as may be deemed necessary by the directors, and be agreed to by a majority in interest of stockholders and loanholders assembled or represented at meetings duly called for that purpose in order to accomplish any of the objects of this act, or to improve, enlarge and perfect the said Chesapeake and Delaware Canal navigation, or for any other purpose which may be deemed advisable without affecting the priority of said Randel funded debt, upon such terms as may be agreed upon by the lenders and the said company, and to issue certificates for such new loans which shall bear interest, to be transferable, convertible and redeemable, or otherwise, according to the contract between the parties.

for what purpose.

Holders of certificates of debt right to vote;

SECT. XI. *And be it enacted*, That in all elections to be held for president and directors of said company after the sixth day of June in the present year, and at all meetings of stockholders to be called upon the business of the company, the holders of any certificates of debt herein provided for, and of any to be created by virtue of future loans, shall be entitled to participate and to vote in person or by proxy, and in voting shall have the same rights and privileges as the stockholders; and in estimating the number of votes which any holder of a certificate shall be entitled to

how many votes.

give, every two hundred dollars of the amount held by such person shall be taken and estimated as equal to one share of the stock: *Provided always*, that no person shall be entitled to vote upon any certificate which such person shall not have held at least two months before the election, or the meeting of business at which his vote may be offered; nor shall any vote by proxy be received, unless such proxy shall have been created within ninety days next preceding that on which such vote shall be tendered. Delaware, June 15, 1836. Proviso.

SECT. XII. *And be it enacted*, That at all elections for president and directors to be held after the sixth day of June, in this present year there shall be chosen fourteen directors, who, together with the president, shall constitute the board of president and directors, any eight of whom shall constitute a quorum; and if at any time hereafter a vacancy shall occur in the board by death, it shall be lawful for the remaining members to fill the same by electing a person to serve until the next general meeting of proprietors. Directors to be chosen, quorum, vacancies.

Passed* at Dover, June 15, 1836.

Act passed at Dover, June 15th, 1836. Pamphlet Laws, p. 32—Digest, 97, 98.

A supplement to the act, entitled, "An Act for expediting suits against Corporations."

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That when and as soon as the Chesapeake and Delaware Canal Company shall accept as a part of their charter, the act entitled, "A further additional supplement to the act entitled, 'An Act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof,'" passed at the present session; the fourth section of the act to which this is a supplement, and so much of any other act or acts of the Legislature of this State as authorizes the attachment of the tolls of the said corporation, shall be, and the same are hereby repealed, made null and void: *Provided*, that nothing in this act shall extend to the repeal of any part of said last mentioned acts, except so far as the same apply to the said corporation. Fourth sec. &c., repealed —upon condition. Proviso.

At a general meeting of the Stockholders of the Chesapeake and Delaware Canal Company, specially convened, at their office in Philadelphia, on the 1st of September, 1836, the following preamble and resolution were unanimously adopted, viz. Meeting of Stockholders, Sept. 1, 1836.

*Passed by the *unanimous* vote and concurrence of both branches of the Legislature. Vide Journal of the Senate and House of Representatives.

Delaware, June 15, 1836.

Whereas, the President and Directors have this day submitted to this meeting "a certain act passed by the Legislature of the State of Maryland at the December Session in 1835, entitled an act, &c. and two certain acts passed by the Legislature of the State of Delaware on the fifteenth day of June, 1836, the first entitled "A further additional supplement to an act entitled an act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof;" and the second entitled "A supplement to an act entitled "An Act for expediting suits against Corporations; and *whereas*, the same have been read and fully considered by this meeting, therefore,

Certain Acts of Assembly submitted.

Resolved, That the Chesapeake and Delaware Canal Company, do at this general meeting of Proprietors, convened according to law, after due public notice, accept the said Acts, and every portion thereof as part of their Charter, and as Supplementary to the acts heretofore passed by the said Legislature, in relation to the said Chesapeake and Delaware Canal Company, and the rights, powers and privileges thereof.

Maryland, May, 1836.

Act passed at Annapolis, May, 1836. Senate File, May 25, 1836.—Bill, No. 1.

A further additional supplement to an act, entitled "An Act to incorporate a company for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay.

SECT. I. *Be it enacted by the General Assembly of Maryland, &c. &c.*—Same as first Section of the Law, passed by the State of Delaware, June 15, 1836.

SECT. II. Same as second section of Delaware Law.
SECT. III. Same as third do do.
SECT. IV. Same as fourth do do.
SECT. V. Same as fifth do do.
SECT. VI. Same as sixth do do.
SECT. VII. Same as seventh do do.
SECT. VIII. Same as eighth do do.
SECT. IX. Same as ninth do do.

Company authorized to borrow money.

SECT. X. *And be it enacted*, That the said Chesapeake and Delaware Canal Company, shall have right and power to borrow from time to time, all such further sums of money, as may be deemed necessary by the Directors, and be agreed to by a majority in interest of Stockholders and Loanholders assembled or represented at meetings duly called for that purpose, in order to accomplish any of the objects of this act, without affecting the priority of said Ran-

how.

del's funded debt, upon such terms as may be agreed upon by the lenders and the said Company, and to issue Certificates for such new loan, which shall bear interest, be transferable, convertable and redeemable or otherwise, according to the contract between the parties: *Provided*, nevertheless that on [no] power granted by this act shall be construed to grant Banking privileges, and it is hereby declared not to be intended to authorize such enlargement of the said Canal as will make it capable of ship navigation, and this Legislature hereby restricts and inhibits the Company from so enlarging said Canal.

Maryland, May, 1836.

and may issue Certificates therefor.

Proviso. The Company shall not have Banking privileges, or widen the Canal for ship navigation.

SECT. XI.—Same as eleventh section of Delaware Law.

SECT. XII.—Same as twelfth section of do do.

SECT. XIII. *And be it enacted*, That the act, entitled "A further supplement to an act, entitled an Act to incorporate a company, for the purpose of cutting and making a Canal between the River Delaware and the Chesapeake Bay," passed at December Session, one thousand eight hundred and thirty-five, be and the same is hereby repealed.

Act passed at December Session, 1835, repealed.

Act passed at Harrisburg, 31st March, 1837.

Whereas, the Legislature of the Commonwealth of Delaware, did on the fifteenth of June, 1836, pass an act, entitled "A further additional supplement to an act entitled "An Act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake Bay and River Delaware, or the waters thereof:" And whereas, the Legislature of the Commonwealth of Maryland, in May, 1836, did likewise pass a Bill, entitled "A further additional supplement to an act entitled "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and Chesapeake Bay;" And whereas, the Chesapeake and Delaware Canal Company have desired the sanction of the Legislative authority of this Commonwealth,

Pennsylvania, Mar. 31, 1837.

Preamble.

SECT. IV. That the act of the Legislature of the State of Delaware, entitled "A further additional supplement to an act entitled "An Act to incorporate a Company for the purpose of cutting and making a Canal between the Chesapeake Bay and River Delaware or the waters thereof," passed the fifteenth day of June, 1836, and the act of the Legislature of the State of Maryland, entitled "A further additional supplement to an act entitled "An Act to incorporate a Company for the purpose of cutting and making a Canal between the River Delaware and Chesapeake Bay" passed in May, 1836, are hereby recognized approved and confirmed, and declared to be valid and of

Certain Acts of the Legislatures of Maryland and Delaware, approved and confirmed.

Pennsylvania, Mar. 31, 1837.

full force and virtue, in the same manner, and to the same effect as if the same were incorporated word for word and section for section into this act.

The foregoing is the copy of so much of the act entitled "A supplement to the act, entitled "An Act for the conveyance of certain real estate and for other purposes" approved the 28th day of March, 1836," passed the 31st day of March, 1837, as relates to the Chesapeake and Delaware Canal.

Delaware. Feb. 2, 1839.

Act passed at Dover, Feb. 2, 1839.

A further additional supplement to an Act, entitled "An Act to incorporate a company for the purpose of cutting and making a Canal between the Chesapeake Bay and Bay or River Delaware, or the waters thereof.

SECT. I. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met:* (two-thirds of each branch of the Legislature concurring herein) That from and after the passing of this Act it shall be lawful for the Chesapeake and Delaware Canal Company, and full right and power, are hereby granted to the said company so to increase the toll on sawed lumber and square and round timber, passing through the said Canal as in their discretion they may deem expedient, and to levy and exact the same; *Provided*, however, that said tolls on the said articles above mentioned shall not exceed the rate of one dollar per hundred cubic feet of such articles.

Company may increase the toll on sawed lumber and timber.

Proviso.

SECT. II. *And be it hereby enacted*, That the power to revoke this Act, be and the same is hereby reserved to the Legislature.

Maryland, Mar. 2, 1839.

Act passed at Annapolis, Dec. Session of 1838.

A further additional supplement to an Act, entitled, "An Act to incorporate a company for the purpose of cutting and making a Canal between the river Delaware and the Chesapeake bay."

SECT. I. *Be it enacted by the General Assembly of Maryland*, That it shall and may be lawful from and after the passage of this Act, for the Chesapeake and Delaware Canal Company to charge such toll on sawed lumber and square or round timber transported thereon in rafts, as in their discretion, they may think proper. *Provided*, the said toll shall not exceed one dollar per hundred cubic feet on such lumber or timber.

Company may assess toll on lumber and timber in rafts, not exceeding $1 per 100 cubic ft.

And be it enacted, That the State of Maryland hereby reserve the right to repeal, alter, modify and amend this supplement whenever it may be expedient.

UNITED STATES OF AMERICA,
Delaware district, ss:

I, Thomas Booth Roberts, clerk of the circuit court of the United States for the Delaware district, do hereby certify, that the within and foregoing seventy-seven pages is a true printed copy of "A collection of Laws relative to the Chesapeake and Delaware Canal;" attached and referred to in a bill filed in the circuit court of the United States for the Delaware district, on the equity side thereof, by John N. Perrine, a citizen of the State of New Jersey, against the Chesapeake and Delaware Canal Company, a corporation of the State of Delaware.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court, at Wilmington, the first [SEAL.] day of July, in the year of our Lord one thousand eight hundred and forty-seven.

T. BOOTH ROBERTS,
Clerk Circ't C't U. S. for Del. Dis.

Subpœna to answer, issued April 13th.

Service of process waived, and defendants appear by James A. Bayard, their solicitor. May 3d, defendant's answer filed in the words following, to wit:

To the honorable the judges of the circuit court of the United States, within and for the district of Delaware, in the fourth circuit, sitting in equity.

The answer of the Chesapeake and Delaware Canal Company, defendants, to the bill of complaint of John A. Perrine, complainant.

These defendants, now and at all times hereafter, reserving to themselves all benefit and advantage of exception which can or may be taken to the many errors, uncertainties, and other imperfections in the complainant's said bill of complaint contained, for answer thereunto, or so much or such parts thereof as these defendants are advised is or are necessary for them to make answer unto, these defendants, answering, say:

That they are informed, and believe it to be true, that the said complainant is a citizen and resident of the State of New Jersey; that the said defendants are a corporation by the name and style of the Chesapeake and Delaware Canal Company, created by and performing their functions and possessing their properties, franchises, authorities, rights, and privileges under the authorities of the acts of the States of Delaware, Maryland, and Pennsylvania, in the said bill of complaint stated and alleged, and the copies of which, thereto annexed, (marked "a collection of the laws relative to the Chesapeake and Delaware canal,") are, as these defendants believe and admit, correct; and that the said corporation, and the stockholders and corporators thereof, are located in and are citizens of the States, as in the said bill of complaint is stated and alleged, and of no other State or States.

And these defendants, further answering, say, that it is true, as in the